

AMENDED IN SENATE JUNE 24, 2013

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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 93

Introduced by Committee on Budget (Blumenfield (Chair), Bloom, Bonilla, Campos, Chesbro, Daly, Dickinson, Gordon, Jones-Sawyer, Mitchell, Mullin, Muratsuchi, Nazarian, Skinner, Stone, and Ting)

January 10, 2013

An act to amend Section 13073.5 of, ~~and~~ to add Sections 7090, 7099.5, and 7119 to, *and to repeal Chapter 12.8 (commencing with Section 7070), Chapter 12.93 (commencing with Section 7097), and Chapter 12.97 (commencing with Section 7105) of Division 7 of Title 1 of*, the Government Code, to amend and repeal Sections 17053.33, 17053.34, 17053.45, 17053.46, 17053.47, 17053.70, 17053.74, 17053.75, 17235, 17267.2, 17267.6, 17268, 17276.2, 17276.5, 17276.6, 19136.8, 23612.2, 23622.7, 23622.8, 23633, 23634, 23645, 23646, 24356.6, 24356.7, 24356.8, 24384.5, 24416.2, 24416.5, and 24416.6 of, to add Section 18410.2 to, to add and repeal Sections 6377.1, 17053.73, 17059.2, 23626, and 23689 of, and ~~to repeal and amend~~ *repeal, amend, and repeal* Sections 17053.80 and 23623 of, the Revenue and Taxation Code, relating to economic development, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 93, as amended, Committee on Budget. Economic development: taxation: credits, deductions, and net operating losses.

(1) Existing law provides for the designation and oversight by the Department of Housing and Community Development of various economic development areas in the state, including enterprise zones, manufacturing enhancement areas, targeted tax areas, and local agency military base recovery areas, or LAMBRAAs. Existing law allows various incentives to businesses operating in these areas.

This bill would repeal the provisions authorizing those designations on January 1, 2014.

(2) The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including hiring credits and sales and use tax credits for taxpayers within the specified economic development areas, and a hiring credit for taxpayers, other than those allowed a credit with respect to operating in the specified economic development areas. Those laws, for taxpayers engaged in business within specified economic development areas, authorize specified net operating loss carryovers and expense deductions in computing income subject to taxes. Those laws also authorize an interest deduction for interest received in payment of indebtedness of a person engaged in business in an enterprise zone.

This bill generally would make these provisions inoperative for taxable years beginning on or after January 1, 2014, and repeal these provisions on either December 1, 2014, or December 1, 2019, as provided. This bill would limit the application of sales and use tax credits to sales and use tax paid for purchases before January 1, 2014, and limit the carryover of those credits to the 5 succeeding years, limit the application of the hiring credits to employees hired within a specified period before January 1, 2014, and limit the interest deduction to interest received before January 1, 2014.

This bill would also allow a credit against tax under both laws for each taxable year beginning on or after January 1, 2014, and before January 1, 2025, in an amount as provided in a written agreement between the Governor's Office of Business and Economic Development and the taxpayer, agreed upon by the California Competes Tax Credit Committee as established by this bill, and based on specified factors, ~~including, but not limited to,~~ *including* the number of jobs the taxpayer will create or retain in the state and the amount of investment in the state by the taxpayer. The bill would limit the aggregate amount of credits allowed to taxpayers to a specified sum per fiscal year.

This bill would, under both laws for taxable years beginning on or after ~~January~~ *July* 1, 2014, and before January 1, 2019, allow a credit

against tax for portions of the wages paid by a taxpayer engaged in a trade or business within a designated census tract, as defined, or a former enterprise zone to certain full-time employees who provide services for that taxpayer in connection with that trade or business. The bill would require the Population Research Unit in the Department of Finance to identify designated census tracts in accordance with certain criteria.

(3) Existing sales and use tax laws impose taxes on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, and provides various exemptions from those taxes.

The bill would exempt from those taxes, on and after January 1, 2014, and before January 1, 2019, the gross receipts from the sale of, and the storage, use, or other consumption of, qualified tangible personal property purchased by a qualified person for use primarily in manufacturing, processing, refining, fabricating, or recycling of property, as specified; qualified tangible personal property purchased for use by a contractor for specified purposes, as provided; and qualified tangible personal property purchased for use by a qualified person to be used primarily in research and development, as provided. The bill would require the purchaser to furnish the retailer with an exemption certificate, as specified.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes districts, as specified, to impose transactions and use taxes in conformity with the Transactions and Use Tax Law, which conforms to the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated into these laws.

This bill would specify that this exemption does not apply to local sales and use taxes, transactions and use taxes, and specified state taxes from which revenues are deposited into the Local Public Safety Fund, the Education Protection Account, the Local Revenue Fund, the Fiscal Recovery Fund, or the Local Revenue Fund 2011.

(4) This bill would appropriate up to \$600,000 for allocation to a committee and departments, as specified, by the Director of Finance in furtherance of the objectives of this bill, as provided.

(5) This bill declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*
3 (a) *California’s economic development policy should be to*
4 *create good jobs with middle-class wages and benefits.*
5 (b) *State assistance regarding employment should be focused*
6 *upon those individuals facing barriers to employment, and state*
7 *tax policy should encourage businesses to invest in California.*
8 (c) *The state’s largest economic development program, the*
9 *enterprise zone program, is in need of comprehensive reform. The*
10 *Public Policy Institute of California released a study in 2009*
11 *finding that enterprise zones have “no statistically significant*
12 *effect on either employment levels or employment growth rates.”*
13 *Furthermore, the Legislative Analyst’s Office has issued several*
14 *reports concluding that enterprise zones do not create jobs, finding*
15 *that the enterprise zone program is “expensive and not strongly*
16 *effective.”*
17 (d) *It is the intent of the Legislature to reform state tax incentives*
18 *for the hiring of individuals in enterprise zones to refocus those*
19 *tax incentives on creating new, good jobs within those zones and*
20 *within other areas of the state suffering from high rates of*
21 *unemployment and poverty.*
22 (e) *It is the intent of the Legislature to exempt manufacturing*
23 *equipment from state sales and use taxes in order to make*
24 *California more competitive in attracting new businesses to the*
25 *state, and to bring California in line with the 48 other states that*
26 *exempt manufacturing equipment from sales and use tax.*
27 (f) *It is the intent of the Legislature in appropriating funds*
28 *pursuant to this act to provide the California Competes Tax Credit*
29 *Committee, and the departments that are required to administer*
30 *this act, with an important tool to attract and retain high-value*
31 *employers. The program created by this act will allow businesses*
32 *to publicly apply for tax credits allowed on the basis of job creation*
33 *and retention standards. This program is intended to be a model*
34 *of transparency and accountability for the state’s job creation*

1 *efforts in that performance measurements will ensure that the*
2 *effective use of taxpayer dollars is maximized.*

3 ~~SECTION 1.~~

4 *SEC. 2.* Section 7090 is added to the Government Code, to
5 read:

6 7090. Chapter 12.8 (commencing with Section 7070) is
7 repealed on January 1, 2014.

8 ~~SEC. 2.~~

9 *SEC. 3.* Section 7099.5 is added to the Government Code, to
10 read:

11 7099.5. Chapter 12.93 (commencing with Section 7097) is
12 repealed on January 1, 2014.

13 ~~SEC. 3.~~

14 *SEC. 4.* Section 7119 is added to the Government Code, to
15 read:

16 7119. Chapter 12.97 (commencing with Section 7105) is
17 repealed on January 1, 2014.

18 ~~SEC. 4.~~

19 *SEC. 5.* Section 13073.5 of the Government Code is amended
20 to read:

21 13073.5. The Legislature finds and declares that: (1) population
22 size and distribution patterns in California exert a major influence
23 on the physical, social, and economic structure of the state and on
24 the quality of the environment generally; (2) sound and current
25 data and methods to estimate population trends are necessary to
26 enable state, regional, and local agencies to plan and function
27 properly; and (3) there is a critical need for a proper study of the
28 implications of present and future population trends in order that
29 state, regional, and local agencies might develop or reexamine
30 policies and actions based thereon.

31 The Population Research Unit shall:

32 (a) Develop basic demographic data and statistical compilations,
33 which may include a current population survey and a mid-decade
34 census.

35 (b) Design and test methods of research and data collection.

36 (c) Conduct local population estimates as required by law.

37 (d) Validate all official census data and population statistics.

38 (e) Analyze and prepare projections of enrollments in public
39 schools, colleges, and universities.

- 1 (f) Analyze governmental records to establish characteristics
2 of migration and distribution.
- 3 (g) Publish annual estimates of the population of the state and
4 its composition.
- 5 (h) Prepare short- and long-range projections of population and
6 its composition.
- 7 (i) Provide advisory services to state agencies and other levels
8 of government.
- 9 (j) Evaluate and recommend data requirements for determining
10 population and population growth.
- 11 (k) Analyze the demographic features of the causes and
12 consequences of patterns of natural increase or decrease, migration,
13 and population concentration within the state.
- 14 (l) Assess the need for population data required for determining
15 the allocation of federal, state, and other subvention revenues.
- 16 (m) Request and obtain from any department, division,
17 commission, or other agency of the state all assistance and
18 information to enable the unit to effectively carry out the provisions
19 of this section.
- 20 (n) Cooperate with the Office of Planning and Research with
21 respect to functions involving mutual areas of concern relating to
22 demography and state planning.
- 23 (o) Enter into agreements to carry out the purposes of this
24 section, including the application for and acceptance of federal
25 funds or private foundation grants for demographic studies.
- 26 (p) Act as primary state government liaison with the Census
27 Bureau, United States Department of Commerce, in the acquisition
28 and distribution of census data and related documentation to state
29 agencies.
- 30 (q) Administer, with other agencies, a State Census Data Center
31 which will be responsible for acquiring decennial and other census
32 data from the Bureau of the Census, and for providing necessary
33 information to the Legislature and to the executive branch and for
34 seeking to ensure the availability of census information to local
35 governments. The unit and the Office of Planning and Research
36 shall be responsible for designating subcenters of the State Census
37 Data Center as needed. The unit will provide materials to
38 subcenters of the State Census Data Center, will coordinate the
39 efforts of the subcenters to avoid duplication and may consult in

1 the design of standard reports to be offered by the center and its
2 subcenters.

3 (r) Coordinate with the Office of Planning and Research
4 Environmental Data Center for the purposes of ensuring
5 consistency and compatibility of data products, improving public
6 access to data, ensuring the consistent interpretation of data, and
7 avoiding duplication of functions.

8 (s) (1) Determine those census tracts that are to be designated
9 census tracts based on data from the five-year American
10 Community Survey (ACS). The census tracts that are within the
11 highest quartile for both civilian unemployment and poverty
12 statistics, as determined in paragraphs (2) and (3), shall be
13 determined to be designated census tracts as described in paragraph
14 (7) of subdivision (b) of Section 17053.73, and paragraph (7) of
15 subdivision (b) of Section 23626 of the Revenue and Taxation
16 Code.

17 (2) To determine the census tracts that are within the highest
18 quartile of census tracts with the highest civilian unemployment,
19 the census tracts shall be sorted by the respective civilian
20 unemployment rate of each in ascending order, or from the lowest
21 (0 percent) to the highest (100 percent) according to the following:

22 (A) Census tracts without a civilian labor force shall be
23 excluded.

24 (B) After ordering the census tracts by the civilian
25 unemployment rate of each, the census tracts shall be divided into
26 four equal groups or quartiles as follows:

27 (i) The first quartile shall represent the lowest fourth of the
28 census tracts (1 percent to less than 26 percent).

29 (ii) The second quartile shall represent the second fourth (26
30 percent to less than 51 percent).

31 (iii) The third quartile shall represent the third fourth (51 percent
32 to less than 76 percent).

33 (iv) The fourth quartile shall represent the fourth fourth (76
34 percent to 100 percent, inclusive).

35 (C) The last or highest quartile shall represent the top 25 percent
36 of the census tracts with the highest civilian unemployment rates.

37 (3) To determine the census tracts that are within the quartile
38 of census tracts with the highest poverty, the census tracts shall
39 be sorted by the respective percentage of population below poverty

1 of each in ascending order, or from the lowest (0 percent) to the
2 highest (100 percent) according to the following:

3 (A) Consistent with poverty statistics in the ACS, which adhere
4 to the standards specified by the federal Office of Management
5 and Budget in Statistical Policy Directive 14, the poverty thresholds
6 as specified by the United States Census Bureau shall be used to
7 determine those individuals below poverty.

8 (B) To determine those individuals below poverty, different
9 thresholds, as specified by the United States Census Bureau, shall
10 be applied to families, people living alone, or people living with
11 nonrelatives (unrelated individuals).

12 (C) If a family's total income is less than the dollar value of the
13 appropriate threshold, then that family and every individual in it
14 shall be considered to be below poverty.

15 (D) If an unrelated individual's total income is less than the
16 appropriate threshold, then that individual shall be considered to
17 be below poverty.

18 (E) Poverty status shall be determined for all people except
19 institutionalized people, people in military group quarters, people
20 in college dormitories, and unrelated individuals under 15 years
21 of age.

22 (F) Census tracts that do not have a population for whom poverty
23 status is determined shall be excluded.

24 (G) After ordering the census tracts by the respective percent
25 below poverty of each, the census tracts shall be divided into four
26 equal quartiles as follows:

27 (i) The first quartile shall represent the lowest fourth of the
28 census tracts (1 percent to less than 26 percent).

29 (ii) The second quartile shall represent the second fourth (26
30 percent to less than 51 percent).

31 (iii) The third quartile shall represent the third fourth (51 percent
32 to less than 76 percent).

33 (iv) The fourth quartile shall represent the fourth fourth (76
34 percent to 100 percent, inclusive).

35 (H) The last or highest quartile shall represent the top 25 percent
36 of the census tracts with the highest percentage of population below
37 poverty.

38 (4) To determine the census tracts that are within the lowest
39 quartile of census tracts with the lowest civilian unemployment
40 and poverty, the census tracts shall be sorted by the respective

1 civilian unemployment and poverty rates of each in ascending
2 order, or from the lowest (0 percent) to the highest (100 percent)
3 according to the following:

4 (A) Census tracts without a civilian labor force are to be
5 excluded.

6 (B) After ordering the census tracts by the civilian
7 unemployment and poverty rates of each, the census tracts shall
8 be divided into four equal groups or quartiles as follows:

9 (i) The first quartile shall represent the lowest fourth of the
10 census tracts (1 percent to less than 26 percent).

11 (ii) The second quartile shall represent the second fourth (26
12 percent to less than 51 percent).

13 (iii) The third quartile shall represent the third fourth (51 percent
14 to less than 76 percent).

15 (iv) The fourth quartile shall represent the fourth fourth (76
16 percent to 100 percent, inclusive).

17 (C) The first or lowest quartile shall represent the bottom 25
18 percent of the census tracts with the lowest civilian unemployment
19 and poverty rates.

20 ~~SEC. 5.~~

21 *SEC. 6.* Section 6377.1 is added to the Revenue and Taxation
22 Code, to read:

23 6377.1. (a) Except as provided in subdivision (e), on or after
24 ~~January~~ July 1, 2014, and before January 1, 2019, there are
25 exempted from the taxes imposed by this part the gross receipts
26 from the sale of, and the storage, use, or other consumption in this
27 state of, any of the following:

28 (1) Qualified tangible personal property purchased for use by
29 a qualified person to be used primarily in any stage of the
30 manufacturing, processing, refining, fabricating, or recycling of
31 tangible personal property, beginning at the point any raw materials
32 are received by the qualified person and introduced into the process
33 and ending at the point at which the manufacturing, processing,
34 refining, fabricating, or recycling has altered tangible personal
35 property to its completed form, including packaging, if required.

36 (2) Qualified tangible personal property purchased for use by
37 a qualified person to be used primarily in research and
38 development.

39 (3) Qualified tangible personal property purchased for use by
40 a qualified person to be used primarily to maintain, repair, measure,

1 or test any qualified tangible personal property described in
2 paragraph (1) or (2).

3 (4) Qualified tangible personal property purchased for use by
4 a contractor purchasing that property for use in the performance
5 of a construction contract for the qualified person, that will use
6 that property as an integral part of the manufacturing, processing,
7 refining, fabricating, or recycling process, or as a research or
8 storage facility for use in connection with those processes.

9 (b) For purposes of this section:

10 (1) “Fabricating” means to make, build, create, produce, or
11 assemble components or tangible personal property to work in a
12 new or different manner.

13 (2) “Manufacturing” means the activity of converting or
14 conditioning tangible personal property by changing the form,
15 composition, quality, or character of the property for ultimate sale
16 at retail or use in the manufacturing of a product to be ultimately
17 sold at retail. Manufacturing includes any improvements to tangible
18 personal property that result in a greater service life or greater
19 functionality than that of the original property.

20 (3) “Primarily” means 50 percent or more of the time.

21 (4) “Process” means the period beginning at the point at which
22 any raw materials are received by the qualified person and
23 introduced into the manufacturing, processing, refining, fabricating,
24 or recycling activity of the qualified person and ending at the point
25 at which the manufacturing, processing, refining, fabricating, or
26 recycling activity of the qualified person has altered tangible
27 personal property to its completed form, including packaging, if
28 required. Raw materials shall be considered to have been
29 introduced into the process when the raw materials are stored on
30 the same premises where the qualified person’s manufacturing,
31 processing, refining, fabricating, or recycling activity is conducted.
32 Raw materials that are stored on premises other than where the
33 qualified person’s manufacturing, processing, refining, fabricating,
34 or recycling activity is conducted shall not be considered to have
35 been introduced into the manufacturing, processing, refining,
36 fabricating, or recycling process.

37 (5) “Processing” means the physical application of the materials
38 and labor necessary to modify or change the characteristics of
39 tangible personal property.

1 (6) (A) “Qualified person” means a person that is primarily
2 engaged in those lines of business described in Codes 3111 to
3 3399, inclusive, 541711, or 541712 of the North American Industry
4 Classification System (NAICS) published by the United States
5 Office of Management and Budget (OMB), 2012 edition.

6 (B) Notwithstanding subparagraph (A), “qualified person” shall
7 not include either of the following:

8 (i) An apportioning trade or business that is required to apportion
9 its business income pursuant to subdivision (b) of Section 25128.

10 (ii) A trade or business conducted wholly within this state that
11 would be required to apportion its business income pursuant to
12 subdivision (b) of Section 25128 if it were subject to apportionment
13 pursuant to Section 25101.

14 (7) (A) “Qualified tangible personal property” includes, but is
15 not limited to, all of the following:

16 (i) Machinery and equipment, including component parts and
17 contrivances such as belts, shafts, moving parts, and operating
18 structures.

19 (ii) Equipment or devices used or required to operate, control,
20 regulate, or maintain the machinery, including, but not limited to,
21 computers, data-processing equipment, and computer software,
22 together with all repair and replacement parts with a useful life of
23 one or more years therefor, whether purchased separately or in
24 conjunction with a complete machine and regardless of whether
25 the machine or component parts are assembled by the qualified
26 person or another party.

27 (iii) Tangible personal property used in pollution control that
28 meets standards established by this state or any local or regional
29 governmental agency within this state.

30 (iv) Special purpose buildings and foundations used as an
31 integral part of the manufacturing, processing, refining, fabricating,
32 or recycling process, or that constitute a research or storage facility
33 used during those processes. Buildings used solely for warehousing
34 purposes after completion of those processes are not included.

35 (B) “Qualified tangible personal property” shall not include any
36 of the following:

37 (i) Consumables with a useful life of less than one year.

38 (ii) Furniture, inventory, and equipment used in the extraction
39 process, or equipment used to store finished products that have

1 completed the manufacturing, processing, refining, fabricating, or
2 recycling process.

3 (iii) Tangible personal property used primarily in administration,
4 general management, or marketing.

5 (8) “Refining” means the process of converting a natural
6 resource to an intermediate or finished product.

7 (9) “Research and development” means those activities that are
8 described in Section 174 of the Internal Revenue Code or in any
9 regulations thereunder.

10 (10) “Useful life” for tangible personal property that is treated
11 as having a useful life of one or more years for state income or
12 franchise tax purposes shall be deemed to have a useful life of one
13 or more years for purposes of this section. “Useful life” for tangible
14 personal property that is treated as having a useful life of less than
15 one year for state income or franchise tax purposes shall be deemed
16 to have a useful life of less than one year for purposes of this
17 section.

18 (c) An exemption shall not be allowed under this section unless
19 the purchaser furnishes the retailer with an exemption certificate,
20 completed in accordance with any instructions or regulations as
21 the board may prescribe, and the retailer retains the exemption
22 certificate in its records and furnishes it to the board upon request.

23 (d) (1) Notwithstanding the Bradley-Burns Uniform Local
24 Sales and Use Tax Law (Part 1.5 (commencing with Section 7200))
25 and the Transactions and Use Tax Law (Part 1.6 (commencing
26 with Section 7251)), the exemption established by this section
27 shall not apply with respect to any tax levied by a county, city, or
28 district pursuant to, or in accordance with, either of those laws.

29 (2) Notwithstanding subdivision (a), the exemption established
30 by this section shall not apply with respect to any tax levied
31 pursuant to Section 6051.2, 6051.5, 6201.2, or 6201.5, pursuant
32 to Section 35 of Article XIII of the California Constitution, or any
33 tax levied pursuant to Section 6051 or 6201 that is deposited in
34 the State Treasury to the credit of the Local Revenue Fund 2011
35 pursuant to Section 6051.15 or 6201.15.

36 (e) (1) ~~Notwithstanding subdivision (a), the~~ *The* exemption
37 provided by this section shall not apply to either of the following:

38 (A) Any tangible personal property purchased during any
39 calendar year that exceeds two hundred million dollars
40 (\$200,000,000) of purchases of qualified tangible personal property

1 for which an exemption is claimed by a qualified person under
2 this section. For purposes of this subparagraph, in the case of a
3 qualified person that is required to be included in a combined report
4 under Section 25101 or authorized to be included in a combined
5 report under Section 25101.15, the aggregate of all purchases of
6 qualified personal property for which an exemption is claimed
7 pursuant to this section by all persons that are required or
8 authorized to be included in a combined report shall not exceed
9 two hundred million dollars (\$200,000,000) in any calendar year.

10 (B) The sale or storage, use, or other consumption of property
11 that, within one year from the date of purchase, is removed from
12 California, converted from an exempt use under subdivision (a)
13 to some other use not qualifying for exemption, or used in a manner
14 not qualifying for exemption.

15 (2) If a purchaser certifies in writing to the seller that the tangible
16 personal property purchased without payment of the tax will be
17 used in a manner entitling the seller to regard the gross receipts
18 from the sale as exempt from the sales tax, and *the purchase*
19 *exceeds the two-hundred-million-dollar (\$200,000,000) limitation*
20 *of subparagraph (A) of paragraph (1), or within one year from*
21 *the date of purchase, the purchaser removes that property from*
22 *California, converts that property for use in a manner not qualifying*
23 *for the exemption, or uses that property in a manner not qualifying*
24 *for the exemption, the purchaser shall be liable for payment of*
25 *sales tax, with applicable interest, as if the purchaser were a retailer*
26 *making a retail sale of the tangible personal property at the time*
27 *the tangible personal property is removed, converted, or used, and*
28 *the sales price of the tangible personal property to the purchaser*
29 *shall be deemed the gross receipts from that retail sale.*

30 (f) This section shall apply to leases of qualified tangible
31 personal property classified as “continuing sales” and “continuing
32 purchases” in accordance with Sections 6006.1 and 6010.1. The
33 exemption established by this section shall apply to the rentals
34 payable pursuant to the lease, provided the lessee is a qualified
35 person and the tangible personal property is used in an activity
36 described in subdivision (a).

37 (g) (1) *Upon the effective date of this section, the Department*
38 *of Finance shall estimate the total dollar amount of exemptions*
39 *that will be taken for each calendar year, or any portion thereof,*
40 *for which this section provides an exemption.*

1 (2) No later than each March 1 next following a calendar year
2 for which this section provides an exemption, the board shall
3 provide to the Joint Legislative Budget Committee a report of the
4 total dollar amount of exemptions taken under this section for the
5 immediately preceding calendar year. The report shall compare
6 the total dollar amount of exemptions taken under this section for
7 that calendar year with the department's estimate for that same
8 calendar year. If that total dollar amount taken is less than the
9 estimate for that calendar year, the report shall identify options
10 for increasing exemptions taken so as to meet estimated amounts.

11 ~~(g)~~

12 (h) This section is repealed on January 1, 2019.

13 ~~SEC. 6.~~

14 SEC. 7. Section 17053.33 of the Revenue and Taxation Code
15 is amended to read:

16 17053.33. (a) For each taxable year beginning on or after
17 January 1, 1998, and before January 1, 2014, there shall be allowed
18 as a credit against the "net tax" (as defined in Section 17039) for
19 the taxable year an amount equal to the sales or use tax paid or
20 incurred during the taxable year by the qualified taxpayer in
21 connection with the qualified taxpayer's purchase of qualified
22 property before January 1, 2014.

23 (b) For purposes of this section:

24 (1) "Qualified property" means property that meets all of the
25 following requirements:

26 (A) Is any of the following:

27 (i) Machinery and machinery parts used for fabricating,
28 processing, assembling, and manufacturing.

29 (ii) Machinery and machinery parts used for the production of
30 renewable energy resources.

31 (iii) Machinery and machinery parts used for either of the
32 following:

33 (I) Air pollution control mechanisms.

34 (II) Water pollution control mechanisms.

35 (iv) Data processing and communications equipment, such as
36 computers, computer-automated drafting systems, copy machines,
37 telephone systems, and faxes.

38 (v) Motion picture manufacturing equipment central to
39 production and post production, such as cameras, audio recorders,
40 and digital image and sound processing equipment.

1 (B) The total cost of qualified property purchased and placed
2 in service in any taxable year that may be taken into account by
3 any qualified taxpayer for purposes of claiming this credit shall
4 not exceed one million dollars (\$1,000,000).

5 (C) The qualified property is used by the qualified taxpayer
6 exclusively in a targeted tax area.

7 (D) The qualified property is purchased and placed in service
8 before the date the targeted tax area designation expires, is revoked,
9 is no longer binding, or becomes inoperative.

10 (2) (A) “Qualified taxpayer” means a person or entity that meets
11 both of the following:

12 (i) Is engaged in a trade or business within a targeted tax area
13 designated pursuant to Chapter 12.93 (commencing with Section
14 7097) of Division 7 of Title 1 of the Government Code.

15 (ii) Is engaged in those lines of business described in Codes
16 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
17 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
18 of the Standard Industrial Classification (SIC) Manual published
19 by the United States Office of Management and Budget, 1987
20 edition.

21 (B) In the case of any pass-through entity, the determination of
22 whether a taxpayer is a qualified taxpayer under this section shall
23 be made at the entity level and any credit under this section or
24 Section 23633 shall be allowed to the pass-through entity and
25 passed through to the partners or shareholders in accordance with
26 applicable provisions of this part or Part 11 (commencing with
27 Section 23001). For purposes of this subparagraph, the term
28 “pass-through entity” means any partnership or S corporation.

29 (3) “Targeted tax area” means the area designated pursuant to
30 Chapter 12.93 (commencing with Section 7097) of Division 7 of
31 Title 1 of the Government Code.

32 (c) If the qualified taxpayer is allowed a credit for qualified
33 property pursuant to this section, only one credit shall be allowed
34 to the taxpayer under this part with respect to that qualified
35 property.

36 (d) If the qualified taxpayer has purchased property upon which
37 a use tax has been paid or incurred, the credit provided by this
38 section shall be allowed only if qualified property of a comparable
39 quality and price is not timely available for purchase in this state.

1 (e) In the case where the credit otherwise allowed under this
2 section exceeds the “net tax” for the taxable year, that portion of
3 the credit that exceeds the “net tax” may be carried over and added
4 to the credit, if any, in the succeeding five taxable years, if
5 necessary, until the credit is exhausted. The credit shall be applied
6 first to the earliest taxable years possible.

7 (f) Any qualified taxpayer who elects to be subject to this section
8 shall not be entitled to increase the basis of the qualified property
9 as otherwise required by Section 164(a) of the Internal Revenue
10 Code with respect to sales or use tax paid or incurred in connection
11 with the qualified taxpayer’s purchase of qualified property.

12 (g) (1) The amount of the credit otherwise allowed under this
13 section and Section 17053.34, including any credit carryover from
14 prior years, that may reduce the “net tax” for the taxable year shall
15 not exceed the amount of tax that would be imposed on the
16 qualified taxpayer’s business income attributable to the targeted
17 tax area determined as if that attributable income represented all
18 of the income of the qualified taxpayer subject to tax under this
19 part.

20 (2) Attributable income shall be that portion of the taxpayer’s
21 California source business income that is apportioned to the
22 targeted tax area. For that purpose, the taxpayer’s business income
23 attributable to sources in this state first shall be determined in
24 accordance with Chapter 17 (commencing with Section 25101) of
25 Part 11. That business income shall be further apportioned to the
26 targeted tax area in accordance with Article 2 (commencing with
27 Section 25120) of Chapter 17 of Part 11, modified for purposes
28 of this section in accordance with paragraph (3).

29 (3) Business income shall be apportioned to the targeted tax
30 area by multiplying the total California business income of the
31 taxpayer by a fraction, the numerator of which is the property
32 factor plus the payroll factor, and the denominator of which is two.
33 For purposes of this paragraph:

34 (A) The property factor is a fraction, the numerator of which is
35 the average value of the taxpayer’s real and tangible personal
36 property owned or rented and used in the targeted tax area during
37 the taxable year, and the denominator of which is the average value
38 of all the taxpayer’s real and tangible personal property owned or
39 rented and used in this state during the taxable year.

1 (B) The payroll factor is a fraction, the numerator of which is
2 the total amount paid by the taxpayer in the targeted tax area during
3 the taxable year for compensation, and the denominator of which
4 is the total compensation paid by the taxpayer in this state during
5 the taxable year.

6 (4) The portion of any credit remaining, if any, after application
7 of this subdivision, shall be carried over to succeeding taxable
8 years, if necessary, until the credit is exhausted, as if it were an
9 amount exceeding the “net tax” for the taxable year, as provided
10 in subdivision (e). However, the portion of any credit remaining
11 for carryover to taxable years beginning on or after January 1,
12 2014, if any, after application of this subdivision, shall be carried
13 over only to the succeeding five taxable years if necessary, until
14 the credit is exhausted, as if it were an amount exceeding the “net
15 tax” for the taxable year, as provided in subdivision (e).

16 (5) In the event that a credit carryover is allowable under
17 subdivision (e) for any taxable year after the targeted tax area
18 designation has expired, has been revoked, is no longer binding,
19 or has become inoperative, the targeted tax area shall be deemed
20 to remain in existence for purposes of computing the limitation
21 specified in this subdivision.

22 (h) The amendments made to this section by the act adding this
23 subdivision shall apply to taxable years beginning on or after
24 January 1, 1998.

25 (i) This section is repealed on December 1, 2014.

26 ~~SEC. 7.~~

27 *SEC. 8.* Section 17053.34 of the Revenue and Taxation Code
28 is amended to read:

29 17053.34. (a) For each taxable year beginning on or after
30 January 1, 1998, there shall be allowed a credit against the “net
31 tax” (as defined in Section 17039) to a qualified taxpayer who
32 employs a qualified employee in a targeted tax area during the
33 taxable year. The credit shall be equal to the sum of each of the
34 following:

35 (1) Fifty percent of qualified wages in the first year of
36 employment.

37 (2) Forty percent of qualified wages in the second year of
38 employment.

39 (3) Thirty percent of qualified wages in the third year of
40 employment.

1 (4) Twenty percent of qualified wages in the fourth year of
2 employment.

3 (5) Ten percent of qualified wages in the fifth year of
4 employment.

5 (b) For purposes of this section:

6 (1) “Qualified wages” means:

7 (A) That portion of wages paid or incurred by the qualified
8 taxpayer during the taxable year to qualified employees that does
9 not exceed 150 percent of the minimum wage.

10 (B) Wages received during the 60-month period beginning with
11 the first day the employee commences employment with the
12 qualified taxpayer. Reemployment in connection with any increase,
13 including a regularly occurring seasonal increase, in the trade or
14 business operations of the qualified taxpayer does not constitute
15 commencement of employment for purposes of this section.

16 (C) Qualified wages do not include any wages paid or incurred
17 by the qualified taxpayer on or after the targeted tax area expiration
18 date. However, wages paid or incurred with respect to qualified
19 employees who are employed by the qualified taxpayer within the
20 targeted tax area within the 60-month period prior to the targeted
21 tax area expiration date shall continue to qualify for the credit
22 under this section after the targeted tax area expiration date, in
23 accordance with all provisions of this section applied as if the
24 targeted tax area designation were still in existence and binding.

25 (2) “Minimum wage” means the wage established by the
26 Industrial Welfare Commission as provided for in Chapter 1
27 (commencing with Section 1171) of Part 4 of Division 2 of the
28 Labor Code.

29 (3) “Targeted tax area expiration date” means the date the
30 targeted tax area designation expires, is revoked, is no longer
31 binding, becomes inoperative, or is repealed.

32 (4) (A) “Qualified employee” means an individual who meets
33 all of the following requirements:

34 (i) At least 90 percent of his or her services for the qualified
35 taxpayer during the taxable year are directly related to the conduct
36 of the qualified taxpayer’s trade or business located in a targeted
37 tax area.

38 (ii) Performs at least 50 percent of his or her services for the
39 qualified taxpayer during the taxable year in a targeted tax area.

1 (iii) Is hired by the qualified taxpayer after the date of original
2 designation of the area in which services were performed as a
3 targeted tax area.

4 (iv) Is any of the following:

5 (I) Immediately preceding the qualified employee's
6 commencement of employment with the qualified taxpayer, was
7 a person eligible for services under the federal Job Training
8 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
9 who is receiving, or is eligible to receive, subsidized employment,
10 training, or services funded by the federal Job Training Partnership
11 Act, or its successor.

12 (II) Immediately preceding the qualified employee's
13 commencement of employment with the qualified taxpayer, was
14 a person eligible to be a voluntary or mandatory registrant under
15 the Greater Avenues for Independence Act of 1985 (GAIN)
16 provided for pursuant to Article 3.2 (commencing with Section
17 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
18 Institutions Code, or its successor.

19 (III) Immediately preceding the qualified employee's
20 commencement of employment with the qualified taxpayer, was
21 an economically disadvantaged individual 14 years of age or older.

22 (IV) Immediately preceding the qualified employee's
23 commencement of employment with the qualified taxpayer, was
24 a dislocated worker who meets any of the following:

25 (aa) Has been terminated or laid off or who has received a notice
26 of termination or layoff from employment, is eligible for or has
27 exhausted entitlement to unemployment insurance benefits, and
28 is unlikely to return to his or her previous industry or occupation.

29 (bb) Has been terminated or has received a notice of termination
30 of employment as a result of any permanent closure or any
31 substantial layoff at a plant, facility, or enterprise, including an
32 individual who has not received written notification but whose
33 employer has made a public announcement of the closure or layoff.

34 (cc) Is long-term unemployed and has limited opportunities for
35 employment or reemployment in the same or a similar occupation
36 in the area in which the individual resides, including an individual
37 55 years of age or older who may have substantial barriers to
38 employment by reason of age.

39 (dd) Was self-employed (including farmers and ranchers) and
40 is unemployed as a result of general economic conditions in the

1 community in which he or she resides or because of natural
2 disasters.

3 (ee) Was a civilian employee of the Department of Defense
4 employed at a military installation being closed or realigned under
5 the Defense Base Closure and Realignment Act of 1990.

6 (ff) Was an active member of the Armed Forces or National
7 Guard as of September 30, 1990, and was either involuntarily
8 separated or separated pursuant to a special benefits program.

9 (gg) Is a seasonal or migrant worker who experiences chronic
10 seasonal unemployment and underemployment in the agriculture
11 industry, aggravated by continual advancements in technology and
12 mechanization.

13 (hh) Has been terminated or laid off, or has received a notice
14 of termination or layoff, as a consequence of compliance with the
15 Clean Air Act.

16 (V) Immediately preceding the qualified employee's
17 commencement of employment with the qualified taxpayer, was
18 a disabled individual who is eligible for or enrolled in, or has
19 completed a state rehabilitation plan or is a service-connected
20 disabled veteran, veteran of the Vietnam era, or veteran who is
21 recently separated from military service.

22 (VI) Immediately preceding the qualified employee's
23 commencement of employment with the qualified taxpayer, was
24 an ex-offender. An individual shall be treated as convicted if he
25 or she was placed on probation by a state court without a finding
26 of guilty.

27 (VII) Immediately preceding the qualified employee's
28 commencement of employment with the qualified taxpayer, was
29 a person eligible for or a recipient of any of the following:

30 (aa) Federal Supplemental Security Income benefits.

31 (bb) Aid to Families with Dependent Children.

32 (cc) CalFresh benefits.

33 (dd) State and local general assistance.

34 (VIII) Immediately preceding the qualified employee's
35 commencement of employment with the qualified taxpayer, was
36 a member of a federally recognized Indian tribe, band, or other
37 group of Native American descent.

38 (IX) Immediately preceding the qualified employee's
39 commencement of employment with the qualified taxpayer, was
40 a resident of a targeted tax area.

1 (X) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was a member
3 of a targeted group as defined in Section 51(d) of the Internal
4 Revenue Code, or its successor.

5 (B) Priority for employment shall be provided to an individual
6 who is enrolled in a qualified program under the federal Job
7 Training Partnership Act or the Greater Avenues for Independence
8 Act of 1985 or who is eligible as a member of a targeted group
9 under the Work Opportunity Tax Credit (Section 51 of the Internal
10 Revenue Code), or its successor.

11 (5) (A) "Qualified taxpayer" means a person or entity that meets
12 both of the following:

13 (i) Is engaged in a trade or business within a targeted tax area
14 designated pursuant to Chapter 12.93 (commencing with Section
15 7097) of Division 7 of Title 1 of the Government Code.

16 (ii) Is engaged in those lines of business described in Codes
17 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
18 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
19 of the Standard Industrial Classification (SIC) Manual published
20 by the United States Office of Management and Budget, 1987
21 edition.

22 (B) In the case of any passthrough entity, the determination of
23 whether a taxpayer is a qualified taxpayer under this section shall
24 be made at the entity level and any credit under this section or
25 Section 23634 shall be allowed to the passthrough entity and passed
26 through to the partners or shareholders in accordance with
27 applicable provisions of this part or Part 11 (commencing with
28 Section 23001). For purposes of this subdivision, the term
29 "passthrough entity" means any partnership or S corporation.

30 (6) "Seasonal employment" means employment by a qualified
31 taxpayer that has regular and predictable substantial reductions in
32 trade or business operations.

33 (c) If the qualified taxpayer is allowed a credit for qualified
34 wages pursuant to this section, only one credit shall be allowed to
35 the taxpayer under this part with respect to those qualified wages.

36 (d) The qualified taxpayer shall do both of the following:

37 (1) Obtain from the Employment Development Department, as
38 permitted by federal law, the local county or city Job Training
39 Partnership Act administrative entity, the local county GAIN office
40 or social services agency, or the local government administering

1 the targeted tax area, a certification that provides that a qualified
2 employee meets the eligibility requirements specified in clause
3 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
4 Employment Development Department may provide preliminary
5 screening and referral to a certifying agency. The Department of
6 Housing and Community Development shall develop regulations
7 governing the issuance of certificates pursuant to subdivision (g)
8 of Section 7097 of the Government Code, and shall develop forms
9 for this purpose.

10 (2) Retain a copy of the certification and provide it upon request
11 to the Franchise Tax Board.

12 (e) (1) For purposes of this section:

13 (A) All employees of trades or businesses, which are not
14 incorporated, that are under common control shall be treated as
15 employed by a single taxpayer.

16 (B) The credit, if any, allowable by this section with respect to
17 each trade or business shall be determined by reference to its
18 proportionate share of the expense of the qualified wages giving
19 rise to the credit, and shall be allocated in that manner.

20 (C) Principles that apply in the case of controlled groups of
21 corporations, as specified in subdivision (d) of Section 23634,
22 shall apply with respect to determining employment.

23 (2) If an employer acquires the major portion of a trade or
24 business of another employer (hereinafter in this paragraph referred
25 to as the “predecessor”) or the major portion of a separate unit of
26 a trade or business of a predecessor, then, for purposes of applying
27 this section (other than subdivision (f)) for any calendar year ending
28 after that acquisition, the employment relationship between a
29 qualified employee and an employer shall not be treated as
30 terminated if the employee continues to be employed in that trade
31 or business.

32 (f) (1) (A) If the employment, other than seasonal employment,
33 of any qualified employee, with respect to whom qualified wages
34 are taken into account under subdivision (a) is terminated by the
35 qualified taxpayer at any time during the first 270 days of that
36 employment (whether or not consecutive) or before the close of
37 the 270th calendar day after the day in which that employee
38 completes 90 days of employment with the qualified taxpayer, the
39 tax imposed by this part for the taxable year in which that
40 employment is terminated shall be increased by an amount equal

1 to the credit allowed under subdivision (a) for that taxable year
2 and all prior taxable years attributable to qualified wages paid or
3 incurred with respect to that employee.

4 (B) If the seasonal employment of any qualified employee, with
5 respect to whom qualified wages are taken into account under
6 subdivision (a) is not continued by the qualified taxpayer for a
7 period of 270 days of employment during the 60-month period
8 beginning with the day the qualified employee commences seasonal
9 employment with the qualified taxpayer, the tax imposed by this
10 part, for the taxable year that includes the 60th month following
11 the month in which the qualified employee commences seasonal
12 employment with the qualified taxpayer, shall be increased by an
13 amount equal to the credit allowed under subdivision (a) for that
14 taxable year and all prior taxable years attributable to qualified
15 wages paid or incurred with respect to that qualified employee.

16 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
17 any of the following:

18 (i) A termination of employment of a qualified employee who
19 voluntarily leaves the employment of the qualified taxpayer.

20 (ii) A termination of employment of a qualified employee who,
21 before the close of the period referred to in subparagraph (A) of
22 paragraph (1), becomes disabled and unable to perform the services
23 of that employment, unless that disability is removed before the
24 close of that period and the qualified taxpayer fails to offer
25 reemployment to that employee.

26 (iii) A termination of employment of a qualified employee, if
27 it is determined that the termination was due to the misconduct (as
28 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
29 the California Code of Regulations) of that employee.

30 (iv) A termination of employment of a qualified employee due
31 to a substantial reduction in the trade or business operations of the
32 qualified taxpayer.

33 (v) A termination of employment of a qualified employee, if
34 that employee is replaced by other qualified employees so as to
35 create a net increase in both the number of employees and the
36 hours of employment.

37 (B) Subparagraph (B) of paragraph (1) shall not apply to any
38 of the following:

1 (i) A failure to continue the seasonal employment of a qualified
2 employee who voluntarily fails to return to the seasonal
3 employment of the qualified taxpayer.

4 (ii) A failure to continue the seasonal employment of a qualified
5 employee who, before the close of the period referred to in
6 subparagraph (B) of paragraph (1), becomes disabled and unable
7 to perform the services of that seasonal employment, unless that
8 disability is removed before the close of that period and the
9 qualified taxpayer fails to offer seasonal employment to that
10 qualified employee.

11 (iii) A failure to continue the seasonal employment of a qualified
12 employee, if it is determined that the failure to continue the
13 seasonal employment was due to the misconduct (as defined in
14 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
15 Code of Regulations) of that qualified employee.

16 (iv) A failure to continue seasonal employment of a qualified
17 employee due to a substantial reduction in the regular seasonal
18 trade or business operations of the qualified taxpayer.

19 (v) A failure to continue the seasonal employment of a qualified
20 employee, if that qualified employee is replaced by other qualified
21 employees so as to create a net increase in both the number of
22 seasonal employees and the hours of seasonal employment.

23 (C) For purposes of paragraph (1), the employment relationship
24 between the qualified taxpayer and a qualified employee shall not
25 be treated as terminated by reason of a mere change in the form
26 of conducting the trade or business of the qualified taxpayer, if the
27 qualified employee continues to be employed in that trade or
28 business and the qualified taxpayer retains a substantial interest
29 in that trade or business.

30 (3) Any increase in tax under paragraph (1) shall not be treated
31 as tax imposed by this part for purposes of determining the amount
32 of any credit allowable under this part.

33 (g) In the case of an estate or trust, both of the following apply:
34 (1) The qualified wages for any taxable year shall be apportioned
35 between the estate or trust and the beneficiaries on the basis of the
36 income of the estate or trust allocable to each.

37 (2) Any beneficiary to whom any qualified wages have been
38 apportioned under paragraph (1) shall be treated, for purposes of
39 this part, as the employer with respect to those wages.

1 (h) For purposes of this section, “targeted tax area” means an
2 area designated pursuant to Chapter 12.93 (commencing with
3 Section 7097) of Division 7 of Title 1 of the Government Code.

4 (i) In the case where the credit otherwise allowed under this
5 section exceeds the “net tax” for the taxable year, that portion of
6 the credit that exceeds the “net tax” may be carried over and added
7 to the credit, if any, in the succeeding five taxable years, if
8 necessary, until the credit is exhausted. The credit shall be applied
9 first to the earliest taxable years possible.

10 (j) (1) The amount of the credit otherwise allowed under this
11 section and Section 17053.33, including any credit carryover from
12 prior years, that may reduce the “net tax” for the taxable year shall
13 not exceed the amount of tax that would be imposed on the
14 qualified taxpayer’s business income attributable to the targeted
15 tax area determined as if that attributable income represented all
16 of the income of the qualified taxpayer subject to tax under this
17 part.

18 (2) Attributable income shall be that portion of the taxpayer’s
19 California source business income that is apportioned to the
20 targeted tax area. For that purpose, the taxpayer’s business income
21 attributable to sources in this state first shall be determined in
22 accordance with Chapter 17 (commencing with Section 25101) of
23 Part 11. That business income shall be further apportioned to the
24 targeted tax area in accordance with Article 2 (commencing with
25 Section 25120) of Chapter 17 of Part 11, modified for purposes
26 of this section in accordance with paragraph (3).

27 (3) Business income shall be apportioned to the targeted tax
28 area by multiplying the total California business income of the
29 taxpayer by a fraction, the numerator of which is the property
30 factor plus the payroll factor, and the denominator of which is two.
31 For purposes of this paragraph:

32 (A) The property factor is a fraction, the numerator of which is
33 the average value of the taxpayer’s real and tangible personal
34 property owned or rented and used in the targeted tax area during
35 the taxable year, and the denominator of which is the average value
36 of all the taxpayer’s real and tangible personal property owned or
37 rented and used in this state during the taxable year.

38 (B) The payroll factor is a fraction, the numerator of which is
39 the total amount paid by the taxpayer in the targeted tax area during
40 the taxable year for compensation, and the denominator of which

1 is the total compensation paid by the taxpayer in this state during
2 the taxable year.

3 (4) The portion of any credit remaining, if any, after application
4 of this subdivision, shall be carried over to succeeding taxable
5 years, if necessary, until the credit is exhausted, as if it were an
6 amount exceeding the “net tax” for the taxable year, as provided
7 in subdivision (i). However, the portion of any credit remaining
8 for carryover to taxable years beginning on or after January 1,
9 2014, if any, after application of this subdivision, shall be carried
10 over only to the succeeding five taxable years, if necessary, until
11 the credit is exhausted, as if it were an amount exceeding the “net
12 tax” for the taxable year, as provided in subdivision (i).

13 (5) In the event that a credit carryover is allowable under
14 subdivision (i) for any taxable year after the targeted tax area
15 expiration date, the targeted tax area shall be deemed to remain in
16 existence for purposes of computing the limitation specified in
17 this subdivision.

18 (k) (1) Except as provided in paragraph (2), this section shall
19 cease to be operative for taxable years beginning on or after January
20 1, 2014, and shall be repealed on December 1, 2019.

21 (2) The section shall continue to apply with respect to qualified
22 employees who are employed by the qualified taxpayer within the
23 targeted tax area within the 60-month period immediately preceding
24 January 1, 2014, and qualified wages paid or incurred with respect
25 to those qualified employees shall continue to qualify for the credit
26 under this section for taxable years beginning on or after January
27 1, 2014, in accordance with this section, as amended by the act
28 adding this subdivision.

29 ~~SEC. 8.~~

30 *SEC. 9.* Section 17053.45 of the Revenue and Taxation Code
31 is amended to read:

32 17053.45. (a) For each taxable year beginning on or after
33 January 1, 1995, and before January 1, 2014, there shall be allowed
34 as a credit against the “net tax” (as defined by Section 17039) an
35 amount equal to the sales or use tax paid or incurred by the
36 taxpayer in connection with the purchase of qualified property
37 before January 1, 2014, to the extent that the qualified property
38 does not exceed a value of one million dollars (\$1,000,000).

39 (b) For purposes of this section:

1 (1) “LAMBRA” means a local agency military base recovery
2 area designated in accordance with Section 7114 of the Government
3 Code.

4 (2) “Taxpayer” means a taxpayer that conducts a trade or
5 business within a LAMBRA and, for the first two taxable years,
6 has a net increase in jobs (defined as 2,000 paid hours per employee
7 per year) of one or more employees in the LAMBRA.

8 (A) The net increase in the number of jobs shall be determined
9 by subtracting the total number of full-time employees (defined
10 as 2,000 paid hours per employee per year) the taxpayer employed
11 in this state in the taxable year prior to commencing business
12 operations in the LAMBRA from the total number of full-time
13 employees the taxpayer employed in this state during the second
14 taxable year after commencing business operations in the
15 LAMBRA. For taxpayers who commence doing business in this
16 state with their LAMBRA business operation, the number of
17 employees for the taxable year prior to commencing business
18 operations in the LAMBRA shall be zero. If the taxpayer has a net
19 increase in jobs in the state, the credit shall be allowed only if one
20 or more full-time employees is employed within the LAMBRA.

21 (B) The total number of employees employed in the LAMBRA
22 shall equal the sum of both of the following:

23 (i) The total number of hours worked in the LAMBRA for the
24 taxpayer by employees (not to exceed 2,000 hours per employee)
25 who are paid an hourly wage divided by 2,000.

26 (ii) The total number of months worked in the LAMBRA for
27 the taxpayer by employees who are salaried employees divided
28 by 12.

29 (C) In the case of a taxpayer who first commences doing
30 business in the LAMBRA during the taxable year, for purposes of
31 clauses (i) and (ii), respectively, of subparagraph (B), the divisors
32 “2,000” and “12” shall be multiplied by a fraction, the numerator
33 of which is the number of months of the taxable year that the
34 taxpayer was doing business in the LAMBRA and the denominator
35 of which is 12.

36 (3) “Qualified property” means property that is each of the
37 following:

38 (A) Purchased by the taxpayer for exclusive use in a trade or
39 business conducted within a LAMBRA.

- 1 (B) Purchased before the date the LAMBRA designation expires,
2 is no longer binding, or becomes inoperative.
- 3 (C) Any of the following:
- 4 (i) High technology equipment, including, but not limited to,
5 computers and electronic processing equipment.
- 6 (ii) Aircraft maintenance equipment, including, but not limited
7 to, engine stands, hydraulic mules, power carts, test equipment,
8 handtools, aircraft start carts, and tugs.
- 9 (iii) Aircraft components, including, but not limited to, engines,
10 fuel control units, hydraulic pumps, avionics, starts, wheels, and
11 tires.
- 12 (iv) Section 1245 property, as defined in Section 1245(a)(3) of
13 the Internal Revenue Code.
- 14 (c) The credit provided under subdivision (a) shall be allowed
15 only for qualified property manufactured in California unless
16 qualified property of a comparable quality and price is not available
17 for timely purchase and delivery from a California manufacturer.
- 18 (d) In the case where the credit otherwise allowed under this
19 section exceeds the “net tax” for the taxable year, that portion of
20 the credit which exceeds the “net tax” may be carried over and
21 added to the credit, if any, in the succeeding five taxable years, if
22 necessary, until the credit is exhausted. The credit shall be applied
23 first to the earliest taxable years possible.
- 24 (e) Any taxpayer who elects to be subject to this section shall
25 not be entitled to increase the basis of the property as otherwise
26 required by Section 164(a) of the Internal Revenue Code with
27 respect to sales or use tax paid or incurred in connection with the
28 purchase of qualified property.
- 29 (f) (1) The amount of credit otherwise allowed under this
30 section and Section 17053.46, including any credit carryover from
31 prior years, that may reduce the “net tax” for the taxable year shall
32 not exceed the amount of tax that would be imposed on the
33 taxpayer’s business income attributed to a LAMBRA determined
34 as if that attributable income represented all the income of the
35 taxpayer subject to tax under this part.
- 36 (2) Attributable income is that portion of the taxpayer’s
37 California source business income that is apportioned to the
38 LAMBRA. For that purpose, the taxpayer’s business income that
39 is attributable to sources in this state shall first be determined in
40 accordance with Chapter 17 (commencing with Section 25101) of

1 Part 11. That business income shall be further apportioned to the
2 LAMBRA in accordance with Article 2 (commencing with Section
3 25120) of Chapter 17 of Part 11, as modified for purposes of this
4 section in accordance with paragraph (3).

5 (3) Income shall be apportioned to a LAMBRA by multiplying
6 the total California business income of the taxpayer by a fraction,
7 the numerator of which is the property factor, plus the payroll
8 factor, and the denominator of which is two. For purposes of this
9 paragraph:

10 (A) The property factor is a fraction, the numerator of which is
11 the average value of the taxpayer's real and tangible personal
12 property owned or rented and used in the LAMBRA during the
13 taxable year, and the denominator of which is the average value
14 of all the taxpayer's real and tangible personal property owned or
15 rented and used in this state during the taxable year.

16 (B) The payroll factor is a fraction, the numerator of which is
17 the total amount paid by the taxpayer in the LAMBRA during the
18 taxable year for compensation, and the denominator of which is
19 the total compensation paid by the taxpayer in this state during the
20 taxable year.

21 (4) The portion of any credit remaining, if any, after application
22 of this subdivision, shall be carried over to succeeding taxable
23 years, if necessary, until the credit is exhausted, as if it were an
24 amount exceeding the "net tax" for the taxable year, as provided
25 in subdivision (d). However, the portion of any credit remaining
26 for carryover to taxable years beginning on or after January 1,
27 2014, if any, after application of this subdivision, shall be carried
28 over only to the succeeding five taxable years, if necessary, until
29 the credit is exhausted, as if it were an amount exceeding the "net
30 tax" for the taxable year, as provided in subdivision (d).

31 (g) (1) If the qualified property is disposed of or no longer used
32 by the taxpayer in the LAMBRA, at any time before the close of
33 the second taxable year after the property is placed in service, the
34 amount of the credit previously claimed, with respect to that
35 property, shall be added to the taxpayer's tax liability in the taxable
36 year of that disposition or nonuse.

37 (2) At the close of the second taxable year, if the taxpayer has
38 not increased the number of its employees as determined by
39 paragraph (2) of subdivision (b), then the amount of the credit

1 previously claimed shall be added to the taxpayer's net tax for the
2 taxpayer's second taxable year.

3 (h) If the taxpayer is allowed a credit for qualified property
4 pursuant to this section, only one credit shall be allowed to the
5 taxpayer under this part with respect to that qualified property.

6 (i) The amendments made to this section by the act adding this
7 subdivision shall apply to taxable years beginning on or after
8 January 1, 1998.

9 (j) This section is repealed on December 1, 2014.

10 ~~SEC. 9.~~

11 *SEC. 10.* Section 17053.46 of the Revenue and Taxation Code
12 is amended to read:

13 17053.46. (a) For each taxable year beginning on or after
14 January 1, 1995, there shall be allowed as a credit against the "net
15 tax" (as defined in Section 17039) to a qualified taxpayer for hiring
16 a qualified disadvantaged individual or a qualified displaced
17 employee during the taxable year for employment in the LAMBRA.
18 The credit shall be equal to the sum of each of the following:

19 (1) Fifty percent of the qualified wages in the first year of
20 employment.

21 (2) Forty percent of the qualified wages in the second year of
22 employment.

23 (3) Thirty percent of the qualified wages in the third year of
24 employment.

25 (4) Twenty percent of the qualified wages in the fourth year of
26 employment.

27 (5) Ten percent of the qualified wages in the fifth year of
28 employment.

29 (b) For purposes of this section:

30 (1) "Qualified wages" means:

31 (A) That portion of wages paid or incurred by the employer
32 during the taxable year to qualified disadvantaged individuals or
33 qualified displaced employees that does not exceed 150 percent
34 of the minimum wage.

35 (B) The total amount of qualified wages which may be taken
36 into account for purposes of claiming the credit allowed under this
37 section shall not exceed two million dollars (\$2,000,000) per
38 taxable year.

39 (C) Wages received during the 60-month period beginning with
40 the first day the individual commences employment with the

1 taxpayer. Reemployment in connection with any increase, including
2 a regularly occurring seasonal increase, in the trade or business
3 operations of the qualified taxpayer does not constitute
4 commencement of employment for purposes of this section.

5 (D) Qualified wages do not include any wages paid or incurred
6 by the qualified taxpayer on or after the LAMBRA expiration date.
7 However, wages paid or incurred with respect to qualified
8 disadvantaged individuals or qualified displaced employees who
9 are employed by the qualified taxpayer within the LAMBRA within
10 the 60-month period prior to the LAMBRA expiration date shall
11 continue to qualify for the credit under this section after the
12 LAMBRA expiration date, in accordance with all provisions of
13 this section applied as if the LAMBRA designation were still in
14 existence and binding.

15 (2) “Minimum wage” means the wage established by the
16 Industrial Welfare Commission as provided for in Chapter 1
17 (commencing with Section 1171) of Part 4 of Division 2 of the
18 Labor Code.

19 (3) “LAMBRA” means a local agency military base recovery
20 area designated in accordance with Section 7114 of the Government
21 Code.

22 (4) “Qualified disadvantaged individual” means an individual
23 who satisfies all of the following requirements:

24 (A) (i) At least 90 percent of whose services for the taxpayer
25 during the taxable year are directly related to the conduct of the
26 taxpayer’s trade or business located in a LAMBRA.

27 (ii) Who performs at least 50 percent of his or her services for
28 the taxpayer during the taxable year in the LAMBRA.

29 (B) Who is hired by the employer after the designation of the
30 area as a LAMBRA in which the individual’s services were
31 primarily performed.

32 (C) Who is any of the following immediately preceding the
33 individual’s commencement of employment with the taxpayer:

34 (i) An individual who has been determined eligible for services
35 under the federal Job Training Partnership Act (29 U.S.C. Sec.
36 1501 et seq.).

37 (ii) Any voluntary or mandatory registrant under the Greater
38 Avenues for Independence Act of 1985 as provided pursuant to
39 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
40 3 of Division 9 of the Welfare and Institutions Code.

1 (iii) An economically disadvantaged individual age 16 years or
2 older.

3 (iv) A dislocated worker who meets any of the following
4 conditions:

5 (I) Has been terminated or laid off or who has received a notice
6 of termination or layoff from employment, is eligible for or has
7 exhausted entitlement to unemployment insurance benefits, and
8 is unlikely to return to his or her previous industry or occupation.

9 (II) Has been terminated or has received a notice of termination
10 of employment as a result of any permanent closure or any
11 substantial layoff at a plant, facility, or enterprise, including an
12 individual who has not received written notification but whose
13 employer has made a public announcement of the closure or layoff.

14 (III) Is long-term unemployed and has limited opportunities for
15 employment or reemployment in the same or a similar occupation
16 in the area in which the individual resides, including an individual
17 55 years of age or older who may have substantial barriers to
18 employment by reason of age.

19 (IV) Was self-employed (including farmers and ranchers) and
20 is unemployed as a result of general economic conditions in the
21 community in which he or she resides or because of natural
22 disasters.

23 (V) Was a civilian employee of the Department of Defense
24 employed at a military installation being closed or realigned under
25 the Defense Base Closure and Realignment Act of 1990.

26 (VI) Was an active member of the Armed Forces or National
27 Guard as of September 30, 1990, and was either involuntarily
28 separated or separated pursuant to a special benefits program.

29 (VII) Experiences chronic seasonal unemployment and
30 underemployment in the agriculture industry, aggravated by
31 continual advancements in technology and mechanization.

32 (VIII) Has been terminated or laid off or has received a notice
33 of termination or layoff as a consequence of compliance with the
34 Clean Air Act.

35 (v) An individual who is enrolled in or has completed a state
36 rehabilitation plan or is a service-connected disabled veteran,
37 veteran of the Vietnam era, or veteran who is recently separated
38 from military service.

1 (vi) An ex-offender. An individual shall be treated as convicted
2 if he or she was placed on probation by a state court without a
3 finding of guilty.

4 (vii) A recipient of:

5 (I) Federal Supplemental Security Income benefits.

6 (II) Aid to Families with Dependent Children.

7 (III) CalFresh benefits.

8 (IV) State and local general assistance.

9 (viii) Is a member of a federally recognized Indian tribe, band,
10 or other group of Native American descent.

11 (5) “Qualified taxpayer” means a taxpayer or partnership that
12 conducts a trade or business within a LAMBRA and, for the first
13 two taxable years, has a net increase in jobs (defined as 2,000 paid
14 hours per employee per year) of one or more employees in the
15 LAMBRA.

16 (A) The net increase in the number of jobs shall be determined
17 by subtracting the total number of full-time employees (defined
18 as 2,000 paid hours per employee per year) the taxpayer employed
19 in this state in the taxable year prior to commencing business
20 operations in the LAMBRA from the total number of full-time
21 employees the taxpayer employed in this state during the second
22 taxable year after commencing business operations in the
23 LAMBRA. For taxpayers who commence doing business in this
24 state with their LAMBRA business operation, the number of
25 employees for the taxable year prior to commencing business
26 operations in the LAMBRA shall be zero. If the taxpayer has a net
27 increase in jobs in the state, the credit shall be allowed only if one
28 or more full-time employees is employed within the LAMBRA.

29 (B) The total number of employees employed in the LAMBRA
30 shall equal the sum of both of the following:

31 (i) The total number of hours worked in the LAMBRA for the
32 taxpayer by employees (not to exceed 2,000 hours per employee)
33 who are paid an hourly wage divided by 2,000.

34 (ii) The total number of months worked in the LAMBRA for
35 the taxpayer by employees who are salaried employees divided
36 by 12.

37 (C) In the case of a taxpayer who first commences doing
38 business in the LAMBRA during the taxable year, for purposes of
39 clauses (i) and (ii), respectively, of subparagraph (B), the divisors
40 “2,000” and “12” shall be multiplied by a fraction, the numerator

1 of which is the number of months of the taxable year that the
 2 taxpayer was doing business in the LAMBRA and the denominator
 3 of which is 12.

4 (6) “Qualified displaced employee” means an individual who
 5 satisfies all of the following requirements:

6 (A) Any civilian or military employee of a base or former base
 7 who has been displaced as a result of a federal base closure act.

8 (B) (i) At least 90 percent of whose services for the taxpayer
 9 during the taxable year are directly related to the conduct of the
 10 taxpayer’s trade or business located in a LAMBRA.

11 (ii) Who performs at least 50 percent of his or her services for
 12 the taxpayer during the taxable year in a LAMBRA.

13 (C) Who is hired by the employer after the designation of the
 14 area in which services were performed as a LAMBRA.

15 (7) “Seasonal employment” means employment by a qualified
 16 taxpayer that has regular and predictable substantial reductions in
 17 trade or business operations.

18 (8) “LAMBRA expiration date” means the date the LAMBRA
 19 designation expires, is no longer binding, becomes inoperative, or
 20 is repealed.

21 (c) For qualified disadvantaged individuals or qualified displaced
 22 employees hired on or after January 1, 2001, the taxpayer shall do
 23 both of the following:

24 (1) Obtain from the Employment Development Department, as
 25 permitted by federal law, the local county or city Job Training
 26 Partnership Act administrative entity, the local county GAIN office
 27 or social services agency, or the local government administering
 28 the LAMBRA, a certification that provides that a qualified
 29 disadvantaged individual or qualified displaced employee meets
 30 the eligibility requirements specified in subparagraph (C) of
 31 paragraph (4) of subdivision (b) or subparagraph (A) of paragraph
 32 (6) of subdivision (b). The Employment Development Department
 33 may provide preliminary screening and referral to a certifying
 34 agency. The Department of Housing and Community Development
 35 shall develop regulations governing the issuance of certificates
 36 pursuant to Section 7114.2 of the Government Code and shall
 37 develop forms for this purpose.

38 (2) Retain a copy of the certification and provide it upon request
 39 to the Franchise Tax Board.

40 (d) (1) For purposes of this section, both of the following apply:

1 (A) All employees of trades or businesses that are under
2 common control shall be treated as employed by a single employer.

3 (B) The credit (if any) allowable by this section with respect to
4 each trade or business shall be determined by reference to its
5 proportionate share of the qualified wages giving rise to the credit.

6 The regulations prescribed under this paragraph shall be based
7 on principles similar to the principles that apply in the case of
8 controlled groups of corporations as specified in subdivision (e)
9 of Section 23622.

10 (2) If an employer acquires the major portion of a trade or
11 business of another employer (hereinafter in this paragraph referred
12 to as the “predecessor”) or the major portion of a separate unit of
13 a trade or business of a predecessor, then, for purposes of applying
14 this section (other than subdivision (d)) for any calendar year
15 ending after that acquisition, the employment relationship between
16 an employee and an employer shall not be treated as terminated if
17 the employee continues to be employed in that trade or business.

18 (e) (1) (A) If the employment, other than seasonal employment,
19 of any employee, with respect to whom qualified wages are taken
20 into account under subdivision (a), is terminated by the taxpayer
21 at any time during the first 270 days of that employment (whether
22 or not consecutive) or before the close of the 270th calendar day
23 after the day in which that employee completes 90 days of
24 employment with the taxpayer, the tax imposed by this part for
25 the taxable year in which that employment is terminated shall be
26 increased by an amount (determined under those regulations) equal
27 to the credit allowed under subdivision (a) for that taxable year
28 and all prior taxable years attributable to qualified wages paid or
29 incurred with respect to that employee.

30 (B) If the seasonal employment of any qualified disadvantaged
31 individual, with respect to whom qualified wages are taken into
32 account under subdivision (a), is not continued by the qualified
33 taxpayer for a period of 270 days of employment during the
34 60-month period beginning with the day the qualified
35 disadvantaged individual commences seasonal employment with
36 the qualified taxpayer, the tax imposed by this part, for the taxable
37 year that includes the 60th month following the month in which
38 the qualified disadvantaged individual commences seasonal
39 employment with the qualified taxpayer, shall be increased by an
40 amount equal to the credit allowed under subdivision (a) for that

1 taxable year and all prior taxable years attributable to qualified
2 wages paid or incurred with respect to that qualified disadvantaged
3 individual.

4 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
5 any of the following:

6 (i) A termination of employment of an employee who voluntarily
7 leaves the employment of the taxpayer.

8 (ii) A termination of employment of an individual who, before
9 the close of the period referred to in subparagraph (A) of paragraph
10 (1), becomes disabled to perform the services of that employment,
11 unless that disability is removed before the close of that period
12 and the taxpayer fails to offer reemployment to that individual.

13 (iii) A termination of employment of an individual, if it is
14 determined that the termination was due to the misconduct (as
15 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
16 the California Code of Regulations) of that individual.

17 (iv) A termination of employment of an individual due to a
18 substantial reduction in the trade or business operations of the
19 taxpayer.

20 (v) A termination of employment of an individual, if that
21 individual is replaced by other qualified employees so as to create
22 a net increase in both the number of employees and the hours of
23 employment.

24 (B) Subparagraph (B) of paragraph (1) shall not apply to any
25 of the following:

26 (i) A failure to continue the seasonal employment of a qualified
27 disadvantaged individual who voluntarily fails to return to the
28 seasonal employment of the qualified taxpayer.

29 (ii) A failure to continue the seasonal employment of a qualified
30 disadvantaged individual who, before the close of the period
31 referred to in subparagraph (B) of paragraph (1), becomes disabled
32 and unable to perform the services of that seasonal employment,
33 unless that disability is removed before the close of that period
34 and the qualified taxpayer fails to offer seasonal employment to
35 that individual.

36 (iii) A failure to continue the seasonal employment of a qualified
37 disadvantaged individual, if it is determined that the failure to
38 continue the seasonal employment was due to the misconduct (as
39 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of

1 the California Code of Regulations) of that qualified disadvantaged
2 individual.

3 (iv) A failure to continue seasonal employment of a qualified
4 disadvantaged individual due to a substantial reduction in the
5 regular seasonal trade or business operations of the qualified
6 taxpayer.

7 (v) A failure to continue the seasonal employment of a qualified
8 disadvantaged individual, if that individual is replaced by other
9 qualified displaced employees so as to create a net increase in both
10 the number of seasonal employees and the hours of seasonal
11 employment.

12 (C) For purposes of paragraph (1), the employment relationship
13 between the taxpayer and an employee shall not be treated as
14 terminated by reason of a mere change in the form of conducting
15 the trade or business of the taxpayer, if the employee continues to
16 be employed in that trade or business and the taxpayer retains a
17 substantial interest in that trade or business.

18 (3) Any increase in tax under paragraph (1) shall not be treated
19 as tax imposed by this part for purposes of determining the amount
20 of any credit allowable under this part.

21 (4) At the close of the second taxable year, if the taxpayer has
22 not increased the number of its employees as determined by
23 paragraph (5) of subdivision (b), then the amount of the credit
24 previously claimed shall be added to the taxpayer's net tax for the
25 taxpayer's second taxable year.

26 (f) In the case of an estate or trust, both of the following apply:

27 (1) The qualified wages for any taxable year shall be apportioned
28 between the estate or trust and the beneficiaries on the basis of the
29 income of the estate or trust allocable to each.

30 (2) Any beneficiary to whom any qualified wages have been
31 apportioned under paragraph (1) shall be treated (for purposes of
32 this part) as the employer with respect to those wages.

33 (g) The credit shall be reduced by the credit allowed under
34 Section 17053.7. The credit shall also be reduced by the federal
35 credit allowed under Section 51 of the Internal Revenue Code.

36 In addition, any deduction otherwise allowed under this part for
37 the wages or salaries paid or incurred by the taxpayer upon which
38 the credit is based shall be reduced by the amount of the credit,
39 prior to any reduction required by subdivision (h) or (i).

1 (h) In the case where the credit otherwise allowed under this
2 section exceeds the “net tax” for the taxable year, that portion of
3 the credit that exceeds the “net tax” may be carried over and added
4 to the credit, if any, in the succeeding five taxable years, if
5 necessary, until the credit is exhausted. The credit shall be applied
6 first to the earliest taxable years possible.

7 (i) (1) The amount of credit otherwise allowed under this section
8 and Section 17053.45, including prior year credit carryovers, that
9 may reduce the “net tax” for the taxable year shall not exceed the
10 amount of tax that would be imposed on the taxpayer’s business
11 income attributed to a LAMBRA determined as if that attributed
12 income represented all of the net income of the taxpayer subject
13 to tax under this part.

14 (2) Attributable income shall be that portion of the taxpayer’s
15 California source business income that is apportioned to the
16 LAMBRA. For that purpose, the taxpayer’s business income that
17 is attributable to sources in this state first shall be determined in
18 accordance with Chapter 17 (commencing with Section 25101) of
19 Part 11. That business income shall be further apportioned to the
20 LAMBRA in accordance with Article 2 (commencing with Section
21 25120) of Chapter 17 of Part 11, modified for purposes of this
22 section in accordance with paragraph (3).

23 (3) Income shall be apportioned to a LAMBRA by multiplying
24 the total California business income of the taxpayer by a fraction,
25 the numerator of which is the property factor plus the payroll factor,
26 and the denominator of which is two. For purposes of this
27 paragraph:

28 (A) The property factor is a fraction, the numerator of which is
29 the average value of the taxpayer’s real and tangible personal
30 property owned or rented and used in the LAMBRA during the
31 taxable year, and the denominator of which is the average value
32 of all the taxpayer’s real and tangible personal property owned or
33 rented and used in this state during the taxable year.

34 (B) The payroll factor is a fraction, the numerator of which is
35 the total amount paid by the taxpayer in the LAMBRA during the
36 taxable year for compensation, and the denominator of which is
37 the total compensation paid by the taxpayer in this state during the
38 taxable year.

39 (4) The portion of any credit remaining, if any, after application
40 of this subdivision, shall be carried over to succeeding taxable

1 years, if necessary, until the credit is exhausted, as if it were an
2 amount exceeding the “net tax” for the taxable year, as provided
3 in subdivision (h). However, the portion of any credit remaining
4 for carryover to taxable years beginning on or after January 1,
5 2014, if any, after application of this subdivision, shall be carried
6 over only to the succeeding five taxable years if necessary, until
7 the credit is exhausted, as if it were an amount exceeding the “net
8 tax” for the taxable year, as provided in subdivision (h).

9 (j) If the taxpayer is allowed a credit pursuant to this section for
10 qualified wages paid or incurred, only one credit shall be allowed
11 to the taxpayer under this part with respect to any wage consisting
12 in whole or in part of those qualified wages.

13 (k) (1) Except as provided in paragraph (2), this section shall
14 cease to be operative for taxable years beginning on or after January
15 1, 2014, and shall be repealed on December 1, 2019.

16 (2) The section shall continue to apply with respect to qualified
17 employees who are employed by the qualified taxpayer within the
18 LAMBRA within the 60-month period immediately preceding
19 January 1, 2014, and qualified wages paid or incurred with respect
20 to those qualified employees shall continue to qualify for the credit
21 under this section for taxable years beginning on or after January
22 1, 2014, in accordance with this section, as amended by the act
23 adding this subdivision.

24 ~~SEC. 10.~~

25 *SEC. 11.* Section 17053.47 of the Revenue and Taxation Code
26 is amended to read:

27 17053.47. (a) For each taxable year beginning on or after
28 January 1, 1998, there shall be allowed a credit against the “net
29 tax” (as defined in Section 17039) to a qualified taxpayer for hiring
30 a qualified disadvantaged individual during the taxable year for
31 employment in the manufacturing enhancement area. The credit
32 shall be equal to the sum of each of the following:

33 (1) Fifty percent of the qualified wages in the first year of
34 employment.

35 (2) Forty percent of the qualified wages in the second year of
36 employment.

37 (3) Thirty percent of the qualified wages in the third year of
38 employment.

39 (4) Twenty percent of the qualified wages in the fourth year of
40 employment.

1 (5) Ten percent of the qualified wages in the fifth year of
2 employment.

3 (b) For purposes of this section:

4 (1) “Qualified wages” means:

5 (A) That portion of wages paid or incurred by the qualified
6 taxpayer during the taxable year to qualified disadvantaged
7 individuals that does not exceed 150 percent of the minimum wage.

8 (B) The total amount of qualified wages which may be taken
9 into account for purposes of claiming the credit allowed under this
10 section shall not exceed two million dollars (\$2,000,000) per
11 taxable year.

12 (C) Wages received during the 60-month period beginning with
13 the first day the qualified disadvantaged individual commences
14 employment with the qualified taxpayer. Reemployment in
15 connection with any increase, including a regularly occurring
16 seasonal increase, in the trade or business operations of the taxpayer
17 does not constitute commencement of employment for purposes
18 of this section.

19 (D) Qualified wages do not include any wages paid or incurred
20 by the qualified taxpayer on or after the manufacturing
21 enhancement area expiration date. However, wages paid or incurred
22 with respect to qualified employees who are employed by the
23 qualified taxpayer within the manufacturing enhancement area
24 within the 60-month period prior to the manufacturing enhancement
25 area expiration date shall continue to qualify for the credit under
26 this section after the manufacturing enhancement area expiration
27 date, in accordance with all provisions of this section applied as
28 if the manufacturing enhancement area designation were still in
29 existence and binding.

30 (2) “Minimum wage” means the wage established by the
31 Industrial Welfare Commission as provided for in Chapter 1
32 (commencing with Section 1171) of Part 4 of Division 2 of the
33 Labor Code.

34 (3) “Manufacturing enhancement area” means an area designated
35 pursuant to Section 7073.8 of the Government Code according to
36 the procedures of Chapter 12.8 (commencing with Section 7070)
37 of Division 7 of Title 1 of the Government Code.

38 (4) “Manufacturing enhancement area expiration date” means
39 the date the manufacturing enhancement area designation expires,
40 is no longer binding, becomes inoperative, or is repealed.

1 (5) “Qualified disadvantaged individual” means an individual
2 who satisfies all of the following requirements:

3 (A) (i) At least 90 percent of whose services for the qualified
4 taxpayer during the taxable year are directly related to the conduct
5 of the qualified taxpayer’s trade or business located in a
6 manufacturing enhancement area.

7 (ii) Who performs at least 50 percent of his or her services for
8 the qualified taxpayer during the taxable year in the manufacturing
9 enhancement area.

10 (B) Who is hired by the qualified taxpayer after the designation
11 of the area as a manufacturing enhancement area in which the
12 individual’s services were primarily performed.

13 (C) Who is any of the following immediately preceding the
14 individual’s commencement of employment with the qualified
15 taxpayer:

16 (i) An individual who has been determined eligible for services
17 under the federal Job Training Partnership Act (29 U.S.C. Sec.
18 1501 et seq.), or its successor.

19 (ii) Any voluntary or mandatory registrant under the Greater
20 Avenues for Independence Act of 1985, or its successor, as
21 provided pursuant to Article 3.2 (commencing with Section 11320)
22 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
23 Code.

24 (iii) Any individual who has been certified eligible by the
25 Employment Development Department under the federal Targeted
26 Jobs Tax Credit Program, or its successor, whether or not this
27 program is in effect.

28 (6) “Qualified taxpayer” means any taxpayer engaged in a trade
29 or business within a manufacturing enhancement area designated
30 pursuant to Section 7073.8 of the Government Code and who meets
31 all of the following requirements:

32 (A) Is engaged in those lines of business described in Codes
33 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
34 inclusive, of the Standard Industrial Classification (SIC) Manual
35 published by the United States Office of Management and Budget,
36 1987 edition.

37 (B) At least 50 percent of the qualified taxpayer’s workforce
38 hired after the designation of the manufacturing enhancement area
39 is composed of individuals who, at the time of hire, are residents

1 of the county in which the manufacturing enhancement area is
2 located.

3 (C) Of this percentage of local hires, at least 30 percent shall
4 be qualified disadvantaged individuals.

5 (7) “Seasonal employment” means employment by a qualified
6 taxpayer that has regular and predictable substantial reductions in
7 trade or business operations.

8 (c) (1) For purposes of this section, all of the following apply:

9 (A) All employees of trades or businesses that are under
10 common control shall be treated as employed by a single qualified
11 taxpayer.

12 (B) The credit (if any) allowable by this section with respect to
13 each trade or business shall be determined by reference to its
14 proportionate share of the expense of the qualified wages giving
15 rise to the credit and shall be allocated in that manner.

16 (C) Principles that apply in the case of controlled groups of
17 corporations, as specified in subdivision (d) of Section 23622.7,
18 shall apply with respect to determining employment.

19 (2) If a qualified taxpayer acquires the major portion of a trade
20 or business of another employer (hereinafter in this paragraph
21 referred to as the “predecessor”) or the major portion of a separate
22 unit of a trade or business of a predecessor, then, for purposes of
23 applying this section (other than subdivision (d)) for any calendar
24 year ending after that acquisition, the employment relationship
25 between a qualified disadvantaged individual and a qualified
26 taxpayer shall not be treated as terminated if the qualified
27 disadvantaged individual continues to be employed in that trade
28 or business.

29 (d) (1) (A) If the employment, other than seasonal employment,
30 of any qualified disadvantaged individual, with respect to whom
31 qualified wages are taken into account under subdivision (b) is
32 terminated by the qualified taxpayer at any time during the first
33 270 days of that employment (whether or not consecutive) or before
34 the close of the 270th calendar day after the day in which that
35 qualified disadvantaged individual completes 90 days of
36 employment with the qualified taxpayer, the tax imposed by this
37 part for the taxable year in which that employment is terminated
38 shall be increased by an amount equal to the credit allowed under
39 subdivision (a) for that taxable year and all prior taxable years

1 attributable to qualified wages paid or incurred with respect to that
2 qualified disadvantaged individual.

3 (B) If the seasonal employment of any qualified disadvantaged
4 individual, with respect to whom qualified wages are taken into
5 account under subdivision (a) is not continued by the qualified
6 taxpayer for a period of 270 days of employment during the
7 60-month period beginning with the day the qualified
8 disadvantaged individual commences seasonal employment with
9 the qualified taxpayer, the tax imposed by this part, for the taxable
10 year that includes the 60th month following the month in which
11 the qualified disadvantaged individual commences seasonal
12 employment with the qualified taxpayer, shall be increased by an
13 amount equal to the credit allowed under subdivision (a) for that
14 taxable year and all prior taxable years attributable to qualified
15 wages paid or incurred with respect to that qualified disadvantaged
16 individual.

17 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
18 any of the following:

19 (i) A termination of employment of a qualified disadvantaged
20 individual who voluntarily leaves the employment of the qualified
21 taxpayer.

22 (ii) A termination of employment of a qualified disadvantaged
23 individual who, before the close of the period referred to in
24 subparagraph (A) of paragraph (1), becomes disabled to perform
25 the services of that employment, unless that disability is removed
26 before the close of that period and the taxpayer fails to offer
27 reemployment to that individual.

28 (iii) A termination of employment of a qualified disadvantaged
29 individual, if it is determined that the termination was due to the
30 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,
31 of Title 22 of the California Code of Regulations) of that individual.

32 (iv) A termination of employment of a qualified disadvantaged
33 individual due to a substantial reduction in the trade or business
34 operations of the qualified taxpayer.

35 (v) A termination of employment of a qualified disadvantaged
36 individual, if that individual is replaced by other qualified
37 disadvantaged individuals so as to create a net increase in both the
38 number of employees and the hours of employment.

39 (B) Subparagraph (B) of paragraph (1) shall not apply to any
40 of the following:

- 1 (i) A failure to continue the seasonal employment of a qualified
 2 disadvantaged individual who voluntarily fails to return to the
 3 seasonal employment of the qualified taxpayer.
- 4 (ii) A failure to continue the seasonal employment of a qualified
 5 disadvantaged individual who, before the close of the period
 6 referred to in subparagraph (B) of paragraph (1), becomes disabled
 7 and unable to perform the services of that seasonal employment,
 8 unless that disability is removed before the close of that period
 9 and the qualified taxpayer fails to offer seasonal employment to
 10 that qualified disadvantaged individual.
- 11 (iii) A failure to continue the seasonal employment of a qualified
 12 disadvantaged individual, if it is determined that the failure to
 13 continue the seasonal employment was due to the misconduct (as
 14 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
 15 the California Code of Regulations) of that qualified disadvantaged
 16 individual.
- 17 (iv) A failure to continue seasonal employment of a qualified
 18 disadvantaged individual due to a substantial reduction in the
 19 regular seasonal trade or business operations of the qualified
 20 taxpayer.
- 21 (v) A failure to continue the seasonal employment of a qualified
 22 disadvantaged individual, if that qualified disadvantaged individual
 23 is replaced by other qualified disadvantaged individuals so as to
 24 create a net increase in both the number of seasonal employees
 25 and the hours of seasonal employment.
- 26 (C) For purposes of paragraph (1), the employment relationship
 27 between the qualified taxpayer and a qualified disadvantaged
 28 individual shall not be treated as terminated by reason of a mere
 29 change in the form of conducting the trade or business of the
 30 qualified taxpayer, if the qualified disadvantaged individual
 31 continues to be employed in that trade or business and the qualified
 32 taxpayer retains a substantial interest in that trade or business.
- 33 (3) Any increase in tax under paragraph (1) shall not be treated
 34 as tax imposed by this part for purposes of determining the amount
 35 of any credit allowable under this part.
- 36 (e) In the case of an estate or trust, both of the following apply:
 37 (1) The qualified wages for any taxable year shall be apportioned
 38 between the estate or trust and the beneficiaries on the basis of the
 39 income of the estate or trust allocable to each.

1 (2) Any beneficiary to whom any qualified wages have been
2 apportioned under paragraph (1) shall be treated (for purposes of
3 this part) as the employer with respect to those wages.

4 (f) The credit shall be reduced by the credit allowed under
5 Section 17053.7. The credit shall also be reduced by the federal
6 credit allowed under Section 51 of the Internal Revenue Code.

7 In addition, any deduction otherwise allowed under this part for
8 the wages or salaries paid or incurred by the qualified taxpayer
9 upon which the credit is based shall be reduced by the amount of
10 the credit, prior to any reduction required by subdivision (g) or
11 (h).

12 (g) In the case where the credit otherwise allowed under this
13 section exceeds the “net tax” for the taxable year, that portion of
14 the credit that exceeds the “net tax” may be carried over and added
15 to the credit, if any, in the succeeding five taxable years, if
16 necessary, until the credit is exhausted. The credit shall be applied
17 first to the earliest taxable years possible.

18 (h) (1) The amount of credit otherwise allowed under this
19 section, including prior year credit carryovers, that may reduce
20 the “net tax” for the taxable year shall not exceed the amount of
21 tax that would be imposed on the qualified taxpayer’s business
22 income attributed to a manufacturing enhancement area determined
23 as if that attributed income represented all of the net income of the
24 qualified taxpayer subject to tax under this part.

25 (2) Attributable income shall be that portion of the taxpayer’s
26 California source business income that is apportioned to the
27 manufacturing enhancement area. For that purpose, the taxpayer’s
28 business income that is attributable to sources in this state first
29 shall be determined in accordance with Chapter 17 (commencing
30 with Section 25101) of Part 11. That business income shall be
31 further apportioned to the manufacturing enhancement area in
32 accordance with Article 2 (commencing with Section 25120) of
33 Chapter 17 of Part 11, modified for purposes of this section in
34 accordance with paragraph (3).

35 (3) Income shall be apportioned to a manufacturing enhancement
36 area by multiplying the total California business income of the
37 taxpayer by a fraction, the numerator of which is the property
38 factor plus the payroll factor, and the denominator of which is two.
39 For purposes of this paragraph:

1 (A) The property factor is a fraction, the numerator of which is
2 the average value of the taxpayer's real and tangible personal
3 property owned or rented and used in the manufacturing
4 enhancement area during the taxable year, and the denominator
5 of which is the average value of all the taxpayer's real and tangible
6 personal property owned or rented and used in this state during
7 the taxable year.

8 (B) The payroll factor is a fraction, the numerator of which is
9 the total amount paid by the taxpayer in the manufacturing
10 enhancement area during the taxable year for compensation, and
11 the denominator of which is the total compensation paid by the
12 taxpayer in this state during the taxable year.

13 (4) The portion of any credit remaining, if any, after application
14 of this subdivision, shall be carried over to succeeding taxable
15 years, if necessary, until the credit is exhausted, as if it were an
16 amount exceeding the "net tax" for the taxable year, as provided
17 in subdivision (g). However, the portion of any credit remaining
18 for carryover to taxable years beginning on or after January 1,
19 2014, if any, after application of this subdivision, shall be carried
20 over only to the succeeding five taxable years if necessary, until
21 the credit is exhausted, as if it were an amount exceeding the "net
22 tax" for the taxable year, as provided in subdivision (g).

23 (i) If the taxpayer is allowed a credit pursuant to this section for
24 qualified wages paid or incurred, only one credit shall be allowed
25 to the taxpayer under this part with respect to any wage consisting
26 in whole or in part of those qualified wages.

27 (j) The qualified taxpayer shall do both of the following:

28 (1) Obtain from the Employment Development Department, as
29 permitted by federal law, the local county or city Job Training
30 Partnership Act administrative entity, the local county GAIN office
31 or social services agency, or the local government administering
32 the manufacturing enhancement area, a certification that provides
33 that a qualified disadvantaged individual meets the eligibility
34 requirements specified in paragraph (5) of subdivision (b). The
35 Employment Development Department may provide preliminary
36 screening and referral to a certifying agency. The Department of
37 Housing and Community Development shall develop regulations
38 governing the issuance of certificates pursuant to subdivision (d)
39 of Section 7086 of the Government Code and shall develop forms
40 for this purpose.

1 (2) Retain a copy of the certification and provide it upon request
2 to the Franchise Tax Board.

3 (k) (1) Except as provided in paragraph (2), this section shall
4 cease to be operative for taxable years beginning on or after January
5 1, 2014, and shall be repealed on December 1, 2019.

6 (2) The section shall continue to apply with respect to qualified
7 employees who are employed by the qualified taxpayer within the
8 manufacturing enhancement area within the 60-month period
9 immediately preceding January 1, 2014, and qualified wages paid
10 or incurred with respect to those qualified employees shall continue
11 to qualify for the credit under this section for taxable years
12 beginning on or after January 1, 2014, in accordance with the
13 provisions of this section, as amended by the act adding this
14 subdivision.

15 ~~SEC. 11.~~

16 *SEC. 12.* Section 17053.70 of the Revenue and Taxation Code
17 is amended to read:

18 17053.70. (a) There shall be allowed as a credit against the
19 “net tax” (as defined in Section 17039) for the taxable year an
20 amount equal to the sales or use tax paid or incurred during the
21 taxable year by the taxpayer in connection with the taxpayer’s
22 purchase of qualified property before January 1, 2014.

23 (b) For purposes of this section:

24 (1) “Taxpayer” means a person or entity engaged in a trade or
25 business within an enterprise zone.

26 (2) “Qualified property” means:

27 (A) Any of the following:

28 (i) Machinery and machinery parts used for fabricating,
29 processing, assembling, and manufacturing.

30 (ii) Machinery and machinery parts used for the production of
31 renewable energy resources.

32 (iii) Machinery and machinery parts used for either of the
33 following:

34 (I) Air pollution control mechanisms.

35 (II) Water pollution control mechanisms.

36 (iv) Data processing and communications equipment, including,
37 but not limited, to computers, computer-automated drafting
38 systems, copy machines, telephone systems, and faxes.

39 (v) Motion picture manufacturing equipment central to
40 production and postproduction, including, but not limited to,

1 cameras, audio recorders, and digital image and sound processing
2 equipment.

3 (B) The total cost of qualified property purchased and placed
4 in service in any taxable year that may be taken into account by
5 any taxpayer for purposes of claiming this credit shall not exceed
6 one million dollars (\$1,000,000).

7 (C) The qualified property is used by the taxpayer exclusively
8 in an enterprise zone.

9 (D) The qualified property is purchased and placed in service
10 before the date the enterprise zone designation expires, is no longer
11 binding, or becomes inoperative.

12 (3) “Enterprise zone” means the area designated as an enterprise
13 zone pursuant to Chapter 12.8 (commencing with Section 7070)
14 of Division 7 of Title 1 of the Government Code as it read on the
15 effective date of the act amending this section.

16 (c) If the taxpayer has purchased property upon which a use tax
17 has been paid or incurred, the credit provided by this section shall
18 be allowed only if qualified property of a comparable quality and
19 price is not timely available for purchase in this state.

20 (d) In the case where the credit otherwise allowed under this
21 section exceeds the “net tax” for the taxable year, that portion of
22 the credit that exceeds the “net tax” may be carried over and added
23 to the credit, if any, in the succeeding five taxable years, if
24 necessary, until the credit is exhausted. The credit shall be applied
25 first to the earliest taxable years possible.

26 (e) Any taxpayer that elects to be subject to this section shall
27 not be entitled to increase the basis of the qualified property as
28 otherwise required by Section 164(a) of the Internal Revenue Code
29 with respect to sales or use tax paid or incurred in connection with
30 the taxpayer’s purchase of qualified property.

31 (f) (1) The amount of the credit otherwise allowed under this
32 section and Section 17053.74, including any credit carryover from
33 prior years, that may reduce the “net tax” for the taxable year shall
34 not exceed the amount of tax that would be imposed on the
35 taxpayer’s business income attributable to the enterprise zone
36 determined as if that attributable income represented all of the
37 income of the taxpayer subject to tax under this part.

38 (2) Attributable income shall be that portion of the taxpayer’s
39 California source business income that is apportioned to the
40 enterprise zone. For that purpose, the taxpayer’s business income

1 attributable to sources in this state first shall be determined in
2 accordance with Chapter 17 (commencing with Section 25101) of
3 Part 11. That business income shall be further apportioned to the
4 enterprise zone in accordance with Article 2 (commencing with
5 Section 25120) of Chapter 17 of Part 11, modified for purposes
6 of this section in accordance with paragraph (3).

7 (3) Business income shall be apportioned to the enterprise zone
8 by multiplying the total California business income of the taxpayer
9 by a fraction, the numerator of which is the property factor plus
10 the payroll factor, and the denominator of which is two. For
11 purposes of this paragraph:

12 (A) The property factor is a fraction, the numerator of which is
13 the average value of the taxpayer's real and tangible personal
14 property owned or rented and used in the enterprise zone during
15 the taxable year, and the denominator of which is the average value
16 of all the taxpayer's real and tangible personal property owned or
17 rented and used in this state during the taxable year.

18 (B) The payroll factor is a fraction, the numerator of which is
19 the total amount paid by the taxpayer in the enterprise zone during
20 the taxable year for compensation, and the denominator of which
21 is the total compensation paid by the taxpayer in this state during
22 the taxable year.

23 (4) The portion of any credit remaining, if any, after application
24 of this subdivision, shall be carried over to succeeding taxable
25 years, if necessary, until the credit is exhausted, as if it were an
26 amount exceeding the "net tax" for the taxable year, as provided
27 in subdivision (d). However, the portion of any credit remaining
28 for carryover to taxable years beginning on or after January 1,
29 2014, if any, after application of this subdivision, shall be carried
30 over only to the succeeding five taxable years, if necessary, until
31 the credit is exhausted, as if it were an amount exceeding the "net
32 tax" for the taxable year, as provided in subdivision (d).

33 (g) The amendments made to this section by the act adding this
34 subdivision shall apply to taxable years beginning on or after
35 January 1, 1998.

36 (h) This section is repealed on December 1, 2014.

37 ~~SEC. 12.~~

38 *SEC. 13.* Section 17053.73 is added to the Revenue and
39 Taxation Code, to read:

1 17053.73. (a) (1) For each taxable year beginning on or after
2 January 1, 2014, and before January 1, 2019, there shall be allowed
3 to a qualified taxpayer that hires a qualified full-time employee
4 and pays or incurs qualified wages attributable to work performed
5 by the qualified full-time employee in a designated census tract
6 or former enterprise zone, and that receives a tentative credit
7 reservation for that qualified full-time employee, a credit against
8 the “net tax,” as defined in Section 17039, in an amount calculated
9 under this section.

10 (2) The amount of the credit allowable under this section for a
11 taxable year shall be equal to the product of the tentative credit
12 amount for the taxable year and the applicable percentage for that
13 taxable year.

14 (3) (A) If a qualified taxpayer relocates to a designated census
15 tract or former enterprise zone, the qualified taxpayer shall be
16 allowed a credit with respect to qualified wages for each qualified
17 full-time employee employed within the new location only if the
18 qualified taxpayer provides each employee at the previous location
19 or locations a written offer of employment at the new location in
20 the designated census tract or former enterprise zone with
21 comparable compensation.

22 (B) For purposes of this paragraph, “relocates to a designated
23 census tract or former enterprise zone” means an increase in the
24 number of qualified full-time employees, employed by a qualified
25 taxpayer, within a designated census tract or tracts or former
26 enterprise-zone zones within a 12-month period in which there is
27 a decrease in the number of full-time employees, employed by the
28 qualified taxpayer in this state, but outside of designated census
29 tracts or former enterprise zone.

30 (C) This paragraph shall not apply to a small business.

31 (4) The credit allowed by this section may be claimed only on
32 a timely filed original return of the qualified taxpayer and only
33 with respect to a qualified full-time employee for whom the
34 qualified taxpayer has received a tentative credit reservation.

35 (b) For purposes of this section:

36 (1) The “tentative credit amount” for a taxable year shall be
37 equal to the product of the applicable credit percentage for each
38 qualified full-time employee and the qualified wages paid by the
39 qualified taxpayer during the taxable year to that qualified full-time
40 employee.

1 (2) The “applicable percentage” for a taxable year shall be equal
2 to a fraction, the numerator of which is the net increase in the total
3 number of full-time employees employed in this state during the
4 taxable year, determined on an annual full-time equivalent basis,
5 as compared with the total number of full-time employees
6 employed in this state during the base year, determined on the
7 same basis, and the denominator of which shall be the total number
8 of qualified full-time employees employed in this state during the
9 taxable year. The applicable percentage shall not exceed 100
10 percent.

11 (3) The “applicable credit percentage” means the credit
12 percentage for the calendar year during which a qualified full-time
13 employee was first employed by the qualified taxpayer. The
14 applicable credit percentage for all calendar years shall be 35
15 percent.

16 (4) “Base year” means the 2013 taxable year, except in the case
17 of a qualified taxpayer who first hires a qualified full-time
18 employee in a taxable year beginning on or after January 1, 2015,
19 the base year means the taxable year immediately preceding the
20 taxable year in which a qualified full-time employee was first hired
21 by the qualified taxpayer.

22 (5) “Acquired” includes any gift, inheritance, transfer incident
23 to divorce, or any other transfer, whether or not for consideration.

24 (6) “Annual full-time equivalent” means either of the following:

25 (A) In the case of a full-time employee paid hourly qualified
26 wages, “annual full-time equivalent” means the total number of
27 hours worked for the qualified taxpayer by the employee, not to
28 exceed 2,000 hours per employee, divided by 2,000.

29 (B) In the case of a salaried full-time employee, “annual
30 full-time equivalent” means the total number of weeks worked for
31 the qualified taxpayer by the employee divided by 52.

32 (7) “Designated census tract” means a census tract within the
33 state that is determined by the Department of Finance to have a
34 civilian unemployment rate that is within the top 25 percent of all
35 census tracts within the state and has a poverty rate within the top
36 25 percent of all census tracts within the state, as prescribed in
37 Section 13073.5 of the Government Code.

38 (8) “Former enterprise zone” means an enterprise zone
39 designated *as of December 31, 2011, and any expansion of an*
40 *enterprise zone prior to December 31, 2012*, under former Chapter

1 12.8 (commencing with former Section ~~7070~~ 7070) of Division 7
2 of Title 1 of the Government Code), Code, as in effect on December
3 31, ~~2011~~, 2012, excluding any census tract within an enterprise
4 zone that is identified by the Department of Finance pursuant to
5 Section 13073.5 of the Government Code as a census tract within
6 the lowest quartile of census tracts with the lowest civilian
7 unemployment *and poverty*.

8 (9) “Minimum wage” means the wage established pursuant to
9 Chapter 1 (commencing with Section 1171) of Part 4 of Division
10 2 of the Labor Code.

11 (10) (A) “Qualified full-time employee” means an individual
12 who meets all of the following requirements:

13 (i) Performs at least 50 percent of his or her services for the
14 qualified taxpayer during the taxable year in a designated census
15 tract or former enterprise zone.

16 (ii) Receives starting wages that are at least 150 percent of the
17 minimum wage.

18 (iii) Is hired by the qualified taxpayer on or after January 1,
19 2014.

20 (iv) Is hired by the qualified taxpayer after the date the
21 Department of Finance determines that the census tract or enterprise
22 zone referred to in clause (i) is a designated census tract or *that*
23 *the census tracts within a former enterprise zone are not census*
24 *tracts with the lowest civilian unemployment and poverty*.

25 (v) Satisfies either of the following conditions:

26 (I) Is paid qualified wages by the qualified taxpayer for services
27 not less than an average of 35 hours per week.

28 (II) Is a salaried employee and was paid compensation during
29 the taxable year for full-time employment, within the meaning of
30 Section 515 of the Labor Code, by the qualified taxpayer.

31 (vi) Upon commencement of employment with the qualified
32 taxpayer, satisfies any of the following conditions:

33 (I) Was unemployed for the six months immediately preceding
34 employment with the qualified taxpayer. In the case of an
35 individual that completed a program of study at a college,
36 university, or other postsecondary educational institution, received
37 a baccalaureate, postgraduate, or professional degree, and was
38 unemployed for the six months immediately preceding employment
39 with the qualified taxpayer, that individual must have completed

1 that program of study at least 12 months prior to the individual's
2 commencement of employment with the qualified taxpayer.

3 (II) Is a veteran that had not been employed since separation
4 from service in the Armed Forces of the United States.

5 (III) Was a recipient of the credit allowed under Section 32 of
6 the Internal Revenue Code, relating to earned income, as applicable
7 for federal purposes, for the previous taxable year.

8 (B) An individual may be considered a qualified full-time
9 employee only for the period of time commencing with the date
10 the individual is first employed by the qualified taxpayer and
11 ending 60 months thereafter.

12 (11) (A) "Qualified taxpayer" means a person or entity engaged
13 in a trade or business within a designated census tract or former
14 enterprise zone that, during the taxable year, pays or incurs
15 qualified wages.

16 ~~(B) "Qualified small business taxpayer" means a qualified
17 taxpayer that is a small business.~~

18 ~~(C)~~

19 ~~(B)~~ In the case of any pass-thru entity, the determination of
20 whether a taxpayer is a qualified taxpayer ~~or a qualified small~~
21 ~~business taxpayer~~ under this section shall be made at the entity
22 level and any credit under this section or Section 23626 shall be
23 allowed to the pass-thru entity and passed through to the partners
24 and shareholders in accordance with applicable provisions of this
25 part or Part 11 (commencing with Section 23001). For purposes
26 of this subdivision, the term "pass-thru entity" means any
27 partnership or "S" corporation.

28 ~~(D)~~

29 (C) "Qualified taxpayers" shall not include any of the following:

30 (i) Employers that provide temporary help services, as described
31 in Code 561320 of the North American Industry Classification
32 System (NAICS) published by the United States Office of
33 Management and Budget, 2012 Edition.

34 (ii) Employers that provide retail trade services, as described
35 in Sector 44-45 of the North American Industry Classification
36 System (NAICS) published by the United States Office of
37 Management and Budget, 2012 Edition.

38 (iii) Employers that are primarily engaged in providing food
39 services, as described in Code 711110, 722511, 722513, 722514,
40 or 722515 of the North American Industry Classification System

1 (NAICS) published by the United States Office of Management
 2 and Budget, 2012 edition.

3 (iv) Employers that are primarily engaged in services as
 4 described in Code 713210, 721120, or 722410 of the North
 5 American Industry Classification System (NAICS) published by
 6 the United States Office of Management and Budget, 2012 edition.

7 ~~(E)~~

8 (D) Subparagraph ~~(D)~~ (C) shall not apply to a taxpayer that is
 9 a “small business.”

10 (12) “Qualified wages” means those wages that meet all of the
 11 following requirements:

12 (A) That portion of wages paid or incurred by the qualified
 13 taxpayer during the taxable year to each qualified full-time
 14 employee that exceeds 150 percent of minimum wage, but does
 15 not exceed 350 percent of minimum wage.

16 (B) Wages paid or incurred during the 60-month period
 17 beginning with the first day the qualified full-time employee
 18 commences employment with the qualified taxpayer. In the case
 19 of any employee who is reemployed, including a regularly
 20 occurring seasonal increase, in the trade or business operations of
 21 the qualified taxpayer, this reemployment shall not be treated as
 22 constituting commencement of employment for purposes of this
 23 section.

24 (C) Except as provided in paragraph (3) of subdivision ~~(m)~~, (n),
 25 qualified wages shall not include any wages paid or incurred by
 26 the qualified taxpayer on or after the date that the Department of
 27 Finance’s redesignation of designated census tracts is effective,
 28 as provided in paragraph (2) of subdivision (g), so that a census
 29 tract is no longer a designated census tract.

30 (13) “Seasonal employment” means employment by a qualified
 31 taxpayer that has regular and predictable substantial reductions in
 32 trade or business operations.

33 (14) (A) “Small business” means a trade or business that has
 34 aggregate gross receipts, less returns and allowances reportable to
 35 this state, of less than two million dollars (\$2,000,000) during the
 36 previous taxable year.

37 (B) (i) For purposes of this paragraph, “gross receipts, less
 38 returns and allowances reportable to this state,” means the sum of
 39 the gross receipts from the production of business income, as
 40 defined in subdivision (a) of Section 25120, and the gross receipts

1 from the production of nonbusiness income, as defined in
2 subdivision (d) of Section 25120.

3 (ii) In the case of any trade or business activity conducted by a
4 partnership or an “S” corporation, the limitations set forth in
5 subparagraph (A) shall be applied to the partnership or “S”
6 corporation ~~at the entity level~~ and to each partner or shareholder.

7 (iii) *For taxpayers that are required to be included in a*
8 *combined report under Section 25101 or authorized to be included*
9 *in a combined report under Section 25101.15, the dollar amount*
10 *specified in subparagraph (A) shall apply to the aggregate gross*
11 *receipts of all taxpayers that are required to be or authorized to*
12 *be included in a combined report.*

13 (15) An individual is “unemployed” for any period for which
14 the individual is all of the following:

15 (A) Not in receipt of wages subject to withholding under Section
16 13020 of the Unemployment Insurance Code for that period.

17 (B) Not a self-employed individual (within the meaning of
18 Section 401(c)(1)(B) of the Internal Revenue Code, relating to
19 self-employed individual) for that period.

20 (C) Not a registered full-time student at a high school, college,
21 university, or other postsecondary educational institution for that
22 period.

23 (c) The net increase in full-time employees of a qualified
24 taxpayer shall be determined as provided by this subdivision:

25 (1) (A) The net increase in full-time employees shall be
26 determined on an annual full-time equivalent basis by subtracting
27 from the amount determined in subparagraph (C) the amount
28 determined in subparagraph (B).

29 (B) The total number of full-time employees employed in the
30 ~~preceding taxable~~ *base* year by the taxpayer and by any trade or
31 business acquired by the taxpayer during the current taxable year.

32 (C) The total number of full-time employees employed in the
33 current taxable year by the taxpayer and by any trade or business
34 acquired during the current taxable year.

35 (2) For taxpayers who first commence doing business in this
36 state during the taxable year, the number of full-time employees
37 for the base year shall be zero.

38 (d) For purposes of this section:

1 (1) All employees of the trades or businesses that are treated as
2 related under Section 267, 318, or 707 of the Internal Revenue
3 Code shall be treated as employed by a single taxpayer.

4 (2) In determining whether the taxpayer has first commenced
5 doing business in this state during the taxable year, the provisions
6 of subdivision (f) of Section 17276.20, without application of
7 paragraph (7) of that subdivision, shall apply.

8 (e) (1) To be eligible for the credit allowed by this section, a
9 qualified taxpayer shall, upon hiring a qualified full-time employee,
10 request a tentative credit reservation from the Franchise Tax Board
11 within 30 days of complying with the Employment Development
12 Department's new hire reporting requirements as provided in
13 Section 1088.5 of the Unemployment Insurance Code, ~~in a~~ *the*
14 form and manner prescribed by the Franchise Tax Board.

15 (2) To obtain a tentative credit reservation with respect to a
16 qualified full-time employee, the qualified taxpayer shall provide
17 necessary information, as determined by the Franchise Tax Board,
18 including the name, social security number, the start date of
19 employment, the rate of pay of the qualified full-time employee,
20 ~~and~~ the qualified taxpayer's gross receipts, less returns and
21 allowances, for the previous taxable year, *and whether the qualified*
22 *full-time employee is a resident of a targeted employment area,*
23 *as defined in former Section 7072 of the Government Code, as in*
24 *effect on December 31, 2013.*

25 (3) The qualified taxpayer shall provide the Franchise Tax Board
26 an annual certification of employment with respect to each
27 qualified full-time employee hired in a previous taxable year, on
28 or before, the 15th day of the third month of the taxable year. The
29 certification shall include necessary information, as determined
30 by the Franchise Tax Board, including the name, social security
31 number, start date of employment, and rate of pay for each qualified
32 full-time employee employed by the qualified taxpayer.

33 (4) A tentative credit reservation provided to a taxpayer with
34 respect to an employee of that taxpayer shall not constitute a
35 determination by the Franchise Tax Board with respect to any of
36 the requirements of this section regarding a taxpayer's eligibility
37 for the credit authorized by this section.

38 (f) The Franchise Tax Board shall do all of the following:

39 (1) Approve a tentative credit reservation with respect to a
40 qualified full-time employee hired during a calendar year ~~and~~

1 ~~advise the qualified taxpayer of the applicable credit percentage~~
2 ~~and the small business applicable credit percentage that may apply~~
3 ~~with respect to the qualified full-time employee. year.~~

4 ~~(2) Determine and publish on its Internet Web site, on or before~~
5 ~~September 1 of each calendar year, the applicable credit percentage~~
6 ~~and small business applicable credit percentage for the following~~
7 ~~calendar year.~~

8 ~~(3) Estimate the tentative credit wage base amount and the small~~
9 ~~business tentative credit wage base amount for a calendar year~~
10 ~~based on the starting wage or salary and full-time employment for~~
11 ~~an entire calendar year.~~

12 ~~(4)~~

13 (2) Determine the aggregate tentative reservation amount and
14 the aggregate small business tentative reservation amount for a
15 calendar year.

16 (3) *A tentative credit reservation request from a qualified*
17 *taxpayer with respect to a qualified full-time employee who is a*
18 *resident of a targeted employment area, as defined in former*
19 *Section 7072 of the Government Code, as in effect on December*
20 *31, 2013, shall be expeditiously processed by the Franchise Tax*
21 *Board. The residence of a qualified full-time employee in a targeted*
22 *employment area shall have no other effect on the eligibility of an*
23 *individual as a qualified full-time employee or the eligibility of a*
24 *qualified taxpayer for the credit authorized by this section.*

25 ~~(5)~~

26 (4) Notwithstanding Section 19542, provide as a searchable
27 database on its Internet Web site, for each taxable year beginning
28 on or after January 1, 2014, and before January 1, 2019, the
29 employer names, amounts of tax credit claimed, and number of
30 new jobs created for each taxable year pursuant to this section and
31 Section 23623.

32 (g) (1) The Department of Finance shall, by January 1, 2014,
33 and by January 1 of every fifth year thereafter, provide the
34 Franchise Tax Board with a list of the designated census tracts and
35 a list of census tracts with the lowest civilian unemployment rate.

36 (2) The redesignation of designated census tracts and lowest
37 civilian unemployment census tracts by the Department of Finance
38 as provided in Section 13073.5 of the Government Code shall be
39 effective, for purposes of this credit, one year after the date the
40 Department of Finance redesignates the designated census tracts.

1 (h) For purposes of this section:

2 (1) All employees of the trades or businesses that are treated as
3 related under Section 267, 318, or 707 of the Internal Revenue
4 Code shall be treated as employed by a single taxpayer.

5 (2) All employees of trades or businesses that are not
6 incorporated, and that are under common control, shall be treated
7 as employed by a single taxpayer.

8 (3) The credit, if any, allowable by this section with respect to
9 each trade or business shall be determined by reference to its
10 proportionate share of the expense of the qualified wages giving
11 rise to the credit, and shall be allocated to that trade or business in
12 that manner.

13 (4) Principles that apply in the case of controlled groups of
14 corporations, as specified in subdivision (h) of Section 23626,
15 shall apply with respect to determining employment.

16 (5) If an employer acquires the major portion of a trade or
17 business of another employer, hereinafter in this paragraph referred
18 to as the predecessor, or the major portion of a separate unit of a
19 trade or business of a predecessor, then, for purposes of applying
20 this section, other than subdivision (i), for any taxable year ending
21 after that acquisition, the employment relationship between a
22 qualified full-time employee and an employer shall not be treated
23 as terminated if the employee continues to be employed in that
24 trade or business.

25 (i) (1) If the employment of any qualified full-time employee,
26 with respect to whom qualified wages are taken into account under
27 subdivision (a), is terminated by the qualified taxpayer at any time
28 during the first 36 months after commencing employment with
29 the qualified taxpayer, whether or not consecutive, the tax imposed
30 by this part for the taxable year in which that employment is
31 terminated shall be increased by an amount equal to the credit
32 allowed under subdivision (a) for that taxable year and all prior
33 taxable years attributable to qualified wages paid or incurred with
34 respect to that employee.

35 (2) Paragraph (1) shall not apply to any of the following:

36 (A) A termination of employment of a qualified full-time
37 employee who voluntarily leaves the employment of the qualified
38 taxpayer.

39 (B) A termination of employment of a qualified full-time
40 employee who, before the close of the period referred to in

1 paragraph (1), becomes disabled and unable to perform the services
2 of that employment, unless that disability is removed before the
3 close of that period and the qualified taxpayer fails to offer
4 reemployment to that employee.

5 (C) A termination of employment of a qualified full-time
6 employee, if it is determined that the termination was due to the
7 misconduct, as defined in Sections 1256-30 to 1256-43, inclusive,
8 of Title 22 of the California Code of Regulations, of that employee.

9 (D) A termination of employment of a qualified full-time
10 employee due to a substantial reduction in the trade or business
11 operations of the qualified taxpayer, *including reductions due to*
12 *seasonal employment*.

13 (E) A termination of employment of a qualified full-time
14 employee, if that employee is replaced by other qualified full-time
15 employees so as to create a net increase in both the number of
16 employees and the hours of employment.

17 (F) A termination of employment of a qualified full-time
18 employee, when that employment is considered seasonal
19 employment and the qualified employee is rehired on a seasonal
20 basis.

21 (3) For purposes of paragraph (1), the employment relationship
22 between the qualified taxpayer and a qualified full-time employee
23 shall not be treated as terminated by reason of a mere change in
24 the form of conducting the trade or business of the qualified
25 taxpayer, if the qualified full-time employee continues to be
26 employed in that trade or business and the qualified taxpayer retains
27 a substantial interest in that trade or business.

28 (4) Any increase in tax under paragraph (1) shall not be treated
29 as tax imposed by this part for purposes of determining the amount
30 of any credit allowable under this part.

31 (j) In the case of an estate or trust, both of the following apply:

32 (1) The qualified wages for any taxable year shall be apportioned
33 between the estate or trust and the beneficiaries on the basis of the
34 income of the estate or trust allocable to each.

35 (2) Any beneficiary to whom any qualified wages have been
36 apportioned under paragraph (1) shall be treated, for purposes of
37 this part, as the employer with respect to those wages.

38 (k) In the case where the credit allowed by this section exceeds
39 the “net tax,” the excess may be carried over to reduce the “net

1 tax” in the following year, and the succeeding four years if
2 necessary, until the credit is exhausted.

3 (l) The Franchise Tax Board may prescribe rules, guidelines,
4 or procedures necessary or appropriate to carry out the purposes
5 of this section, including any guidelines regarding the allocation
6 of the credit allowed under this section. Chapter 3.5 (commencing
7 with Section 11340) of Part 1 of Division 3 of Title 2 of the
8 Government Code shall not apply to any rule, guideline, or
9 procedure prescribed by the Franchise Tax Board pursuant to this
10 section.

11 (m) (1) *Upon the effective date of this section, the Department*
12 *of Finance shall estimate the total dollar amount of credits that*
13 *will be claimed under this section with respect to each fiscal year*
14 *from the 2013–14 fiscal year to the 2018–19 fiscal year, inclusive.*

15 (2) *The Franchise Tax Board shall annually provide to the Joint*
16 *Legislative Budget Committee, by no later than March 1, a report*
17 *of the total dollar amount of the credits claimed under this section*
18 *with respect to the relevant fiscal year. The report shall compare*
19 *the total dollar amount of credits claimed under this section with*
20 *respect to that fiscal year with the department’s estimate with*
21 *respect to that same fiscal year. If the total dollar amount of credits*
22 *claimed for the fiscal year is less than the estimate for that fiscal*
23 *year, the report shall identify options for increasing annual claims*
24 *of the credit so as to meet estimated amounts.*

25 ~~(m)~~

26 (n) (1) This section shall remain in effect only until December
27 1, 2024, and as of that date is repealed.

28 (2) Notwithstanding paragraph (1) of subdivision (a), this section
29 shall continue to be operative for taxable years beginning on or
30 after January 1, 2019, but only with respect to qualified full-time
31 employees who commenced employment with a qualified taxpayer
32 in a designated census tract or former enterprise zone in a taxable
33 year beginning before January 1, 2019.

34 (3) This section shall remain operative for any qualified taxpayer
35 with respect to any qualified full-time employee after the
36 designated census tract is no longer designated or a former
37 enterprise zone ceases to be a former enterprise zone, as defined
38 in this section, for the remaining period, if any, of the 60-month
39 period after the original date of hiring of an otherwise qualified
40 full-time employee and any wages paid or incurred with respect

1 to those qualified full-time employees after the designated census
2 tract is no longer designated or a former enterprise zone ceases to
3 be a former enterprise zone, as defined in this section, shall be
4 treated as qualified wages under this section, provided the
5 employee satisfies any other requirements of paragraphs (10) and
6 (12) of subdivision (b), as if the designated census tract was still
7 designated and binding.

8 ~~SEC. 13.~~

9 *SEC. 14.* Section 17053.74 of the Revenue and Taxation Code
10 is amended to read:

11 17053.74. (a) There shall be allowed a credit against the “net
12 tax” (as defined in Section 17039) to a taxpayer who employs a
13 qualified employee in an enterprise zone during the taxable year.
14 The credit shall be equal to the sum of each of the following:

15 (1) Fifty percent of qualified wages in the first year of
16 employment.

17 (2) Forty percent of qualified wages in the second year of
18 employment.

19 (3) Thirty percent of qualified wages in the third year of
20 employment.

21 (4) Twenty percent of qualified wages in the fourth year of
22 employment.

23 (5) Ten percent of qualified wages in the fifth year of
24 employment.

25 (b) For purposes of this section:

26 (1) “Qualified wages” means:

27 (A) (i) Except as provided in clause (ii), that portion of wages
28 paid or incurred by the taxpayer during the taxable year to qualified
29 employees that does not exceed 150 percent of the minimum wage.

30 (ii) For up to 1,350 qualified employees who are employed by
31 the taxpayer in the Long Beach Enterprise Zone in aircraft
32 manufacturing activities described in Codes 3721 to 3728,
33 inclusive, and Code 3812 of the Standard Industrial Classification
34 (SIC) Manual published by the United States Office of
35 Management and Budget, 1987 edition, “qualified wages” means
36 that portion of hourly wages that does not exceed 202 percent of
37 the minimum wage.

38 (B) Wages received during the 60-month period beginning with
39 the first day the employee commences employment with the
40 taxpayer. Reemployment in connection with any increase, including

1 a regularly occurring seasonal increase, in the trade or business
 2 operations of the taxpayer does not constitute commencement of
 3 employment for purposes of this section.

4 (C) Qualified wages do not include any wages paid or incurred
 5 by the taxpayer on or after the zone expiration date. However,
 6 wages paid or incurred with respect to qualified employees who
 7 are employed by the taxpayer within the enterprise zone within
 8 the 60-month period prior to the zone expiration date shall continue
 9 to qualify for the credit under this section after the zone expiration
 10 date, in accordance with all provisions of this section applied as
 11 if the enterprise zone designation were still in existence and
 12 binding.

13 (2) “Minimum wage” means the wage established by the
 14 Industrial Welfare Commission as provided for in Chapter 1
 15 (commencing with Section 1171) of Part 4 of Division 2 of the
 16 Labor Code.

17 (3) “Zone expiration date” means the date the enterprise zone
 18 designation expires, is no longer binding, becomes inoperative, or
 19 is repealed.

20 (4) (A) “Qualified employee” means an individual who meets
 21 all of the following requirements:

22 (i) At least 90 percent of whose services for the taxpayer during
 23 the taxable year are directly related to the conduct of the taxpayer’s
 24 trade or business located in an enterprise zone.

25 (ii) Performs at least 50 percent of his or her services for the
 26 taxpayer during the taxable year in an enterprise zone.

27 (iii) Is hired by the taxpayer after the date of original designation
 28 of the area in which services were performed as an enterprise zone.

29 (iv) Is any of the following:

30 (I) Immediately preceding the qualified employee’s
 31 commencement of employment with the taxpayer, was a person
 32 eligible for services under the federal Job Training Partnership
 33 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
 34 or is eligible to receive, subsidized employment, training, or
 35 services funded by the federal Job Training Partnership Act, or its
 36 successor.

37 (II) Immediately preceding the qualified employee’s
 38 commencement of employment with the taxpayer, was a person
 39 eligible to be a voluntary or mandatory registrant under the Greater
 40 Avenues for Independence Act of 1985 (GAIN) provided for

1 pursuant to Article 3.2 (commencing with Section 11320) of
2 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
3 Code, or its successor.

4 (III) Immediately preceding the qualified employee's
5 commencement of employment with the taxpayer, was an
6 economically disadvantaged individual 14 years of age or older.

7 (IV) Immediately preceding the qualified employee's
8 commencement of employment with the taxpayer, was a dislocated
9 worker who meets any of the following:

10 (aa) Has been terminated or laid off or who has received a notice
11 of termination or layoff from employment, is eligible for or has
12 exhausted entitlement to unemployment insurance benefits, and
13 is unlikely to return to his or her previous industry or occupation.

14 (bb) Has been terminated or has received a notice of termination
15 of employment as a result of any permanent closure or any
16 substantial layoff at a plant, facility, or enterprise, including an
17 individual who has not received written notification but whose
18 employer has made a public announcement of the closure or layoff.

19 (cc) Is long-term unemployed and has limited opportunities for
20 employment or reemployment in the same or a similar occupation
21 in the area in which the individual resides, including an individual
22 55 years of age or older who may have substantial barriers to
23 employment by reason of age.

24 (dd) Was self-employed (including farmers and ranchers) and
25 is unemployed as a result of general economic conditions in the
26 community in which he or she resides or because of natural
27 disasters.

28 (ee) Was a civilian employee of the Department of Defense
29 employed at a military installation being closed or realigned under
30 the Defense Base Closure and Realignment Act of 1990.

31 (ff) Was an active member of the armed forces or National
32 Guard as of September 30, 1990, and was either involuntarily
33 separated or separated pursuant to a special benefits program.

34 (gg) Is a seasonal or migrant worker who experiences chronic
35 seasonal unemployment and underemployment in the agriculture
36 industry, aggravated by continual advancements in technology and
37 mechanization.

38 (hh) Has been terminated or laid off, or has received a notice
39 of termination or layoff, as a consequence of compliance with the
40 Clean Air Act.

1 (V) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was a disabled
3 individual who is eligible for or enrolled in, or has completed a
4 state rehabilitation plan or is a service-connected disabled veteran,
5 veteran of the Vietnam era, or veteran who is recently separated
6 from military service.

7 (VI) Immediately preceding the qualified employee's
8 commencement of employment with the taxpayer, was an
9 ex-offender. An individual shall be treated as convicted if he or
10 she was placed on probation by a state court without a finding of
11 guilt.

12 (VII) Immediately preceding the qualified employee's
13 commencement of employment with the taxpayer, was a person
14 eligible for or a recipient of any of the following:

15 (aa) Federal Supplemental Security Income benefits.

16 (bb) Aid to Families with Dependent Children.

17 (cc) CalFresh benefits.

18 (dd) State and local general assistance.

19 (VIII) Immediately preceding the qualified employee's
20 commencement of employment with the taxpayer, was a member
21 of a federally recognized Indian tribe, band, or other group of
22 Native American descent.

23 (IX) Immediately preceding the qualified employee's
24 commencement of employment with the taxpayer, was a resident
25 of a targeted employment area, as defined in Section 7072 of the
26 Government Code.

27 (X) An employee who qualified the taxpayer for the enterprise
28 zone hiring credit under former Section 17053.8 or the program
29 area hiring credit under former Section 17053.11.

30 (XI) Immediately preceding the qualified employee's
31 commencement of employment with the taxpayer, was a member
32 of a targeted group, as defined in Section 51(d) of the Internal
33 Revenue Code, or its successor.

34 (B) Priority for employment shall be provided to an individual
35 who is enrolled in a qualified program under the federal Job
36 Training Partnership Act or the Greater Avenues for Independence
37 Act of 1985 or who is eligible as a member of a targeted group
38 under the Work Opportunity Tax Credit (Section 51 of the Internal
39 Revenue Code), or its successor.

1 (5) “Taxpayer” means a person or entity engaged in a trade or
2 business within an enterprise zone designated pursuant to Chapter
3 12.8 (commencing with Section 7070) of the Government Code.

4 (6) “Seasonal employment” means employment by a taxpayer
5 that has regular and predictable substantial reductions in trade or
6 business operations.

7 (c) The taxpayer shall do both of the following:

8 (1) Obtain from the Employment Development Department, as
9 permitted by federal law, the local county or city Job Training
10 Partnership Act administrative entity, the local county GAIN office
11 or social services agency, or the local government administering
12 the enterprise zone, a certification which provides that a qualified
13 employee meets the eligibility requirements specified in clause
14 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
15 Employment Development Department may provide preliminary
16 screening and referral to a certifying agency. The Employment
17 Development Department shall develop a form for this purpose.
18 The Department of Housing and Community Development shall
19 develop regulations governing the issuance of certificates by local
20 governments pursuant to subdivision (a) of Section 7086 of the
21 Government Code.

22 (2) Retain a copy of the certification and provide it upon request
23 to the Franchise Tax Board.

24 (d) (1) For purposes of this section:

25 (A) All employees of trades or businesses, which are not
26 incorporated, that are under common control shall be treated as
27 employed by a single taxpayer.

28 (B) The credit, if any, allowable by this section with respect to
29 each trade or business shall be determined by reference to its
30 proportionate share of the expense of the qualified wages giving
31 rise to the credit, and shall be allocated in that manner.

32 (C) Principles that apply in the case of controlled groups of
33 corporations, as specified in subdivision (d) of Section 23622.7,
34 shall apply with respect to determining employment.

35 (2) If an employer acquires the major portion of a trade or
36 business of another employer (hereinafter in this paragraph referred
37 to as the “predecessor”) or the major portion of a separate unit of
38 a trade or business of a predecessor, then, for purposes of applying
39 this section (other than subdivision (e)) for any calendar year
40 ending after that acquisition, the employment relationship between

1 a qualified employee and an employer shall not be treated as
2 terminated if the employee continues to be employed in that trade
3 or business.

4 (e) (1) (A) If the employment, other than seasonal employment,
5 of any qualified employee, with respect to whom qualified wages
6 are taken into account under subdivision (a), is terminated by the
7 taxpayer at any time during the first 270 days of that employment
8 (whether or not consecutive) or before the close of the 270th
9 calendar day after the day in which that employee completes 90
10 days of employment with the taxpayer, the tax imposed by this
11 part for the taxable year in which that employment is terminated
12 shall be increased by an amount equal to the credit allowed under
13 subdivision (a) for that taxable year and all prior taxable years
14 attributable to qualified wages paid or incurred with respect to that
15 employee.

16 (B) If the seasonal employment of any qualified employee, with
17 respect to whom qualified wages are taken into account under
18 subdivision (a), is not continued by the taxpayer for a period of
19 270 days of employment during the 60-month period beginning
20 with the day the qualified employee commences seasonal
21 employment with the taxpayer, the tax imposed by this part, for
22 the taxable year that includes the 60th month following the month
23 in which the qualified employee commences seasonal employment
24 with the taxpayer, shall be increased by an amount equal to the
25 credit allowed under subdivision (a) for that taxable year and all
26 prior taxable years attributable to qualified wages paid or incurred
27 with respect to that qualified employee.

28 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
29 any of the following:

30 (i) A termination of employment of a qualified employee who
31 voluntarily leaves the employment of the taxpayer.

32 (ii) A termination of employment of a qualified employee who,
33 before the close of the period referred to in paragraph (1), becomes
34 disabled and unable to perform the services of that employment,
35 unless that disability is removed before the close of that period
36 and the taxpayer fails to offer reemployment to that employee.

37 (iii) A termination of employment of a qualified employee, if
38 it is determined that the termination was due to the misconduct (as
39 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
40 the California Code of Regulations) of that employee.

1 (iv) A termination of employment of a qualified employee due
2 to a substantial reduction in the trade or business operations of the
3 taxpayer.

4 (v) A termination of employment of a qualified employee, if
5 that employee is replaced by other qualified employees so as to
6 create a net increase in both the number of employees and the
7 hours of employment.

8 (B) Subparagraph (B) of paragraph (1) shall not apply to any
9 of the following:

10 (i) A failure to continue the seasonal employment of a qualified
11 employee who voluntarily fails to return to the seasonal
12 employment of the taxpayer.

13 (ii) A failure to continue the seasonal employment of a qualified
14 employee who, before the close of the period referred to in
15 subparagraph (B) of paragraph (1), becomes disabled and unable
16 to perform the services of that seasonal employment, unless that
17 disability is removed before the close of that period and the
18 taxpayer fails to offer seasonal employment to that qualified
19 employee.

20 (iii) A failure to continue the seasonal employment of a qualified
21 employee, if it is determined that the failure to continue the
22 seasonal employment was due to the misconduct (as defined in
23 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
24 Code of Regulations) of that qualified employee.

25 (iv) A failure to continue seasonal employment of a qualified
26 employee due to a substantial reduction in the regular seasonal
27 trade or business operations of the taxpayer.

28 (v) A failure to continue the seasonal employment of a qualified
29 employee, if that qualified employee is replaced by other qualified
30 employees so as to create a net increase in both the number of
31 seasonal employees and the hours of seasonal employment.

32 (C) For purposes of paragraph (1), the employment relationship
33 between the taxpayer and a qualified employee shall not be treated
34 as terminated by reason of a mere change in the form of conducting
35 the trade or business of the taxpayer, if the qualified employee
36 continues to be employed in that trade or business and the taxpayer
37 retains a substantial interest in that trade or business.

38 (3) Any increase in tax under paragraph (1) shall not be treated
39 as tax imposed by this part for purposes of determining the amount
40 of any credit allowable under this part.

1 (f) In the case of an estate or trust, both of the following apply:

2 (1) The qualified wages for any taxable year shall be apportioned
3 between the estate or trust and the beneficiaries on the basis of the
4 income of the estate or trust allocable to each.

5 (2) Any beneficiary to whom any qualified wages have been
6 apportioned under paragraph (1) shall be treated, for purposes of
7 this part, as the employer with respect to those wages.

8 (g) For purposes of this section, “enterprise zone” means an
9 area designated as an enterprise zone pursuant to Chapter 12.8
10 (commencing with Section 7070) of Division 7 of Title 1 of the
11 Government Code.

12 (h) The credit allowable under this section shall be reduced by
13 the credit allowed under Sections 17053.10, 17053.17, and
14 17053.46 claimed for the same employee. The credit shall also be
15 reduced by the federal credit allowed under Section 51 of the
16 Internal Revenue Code.

17 In addition, any deduction otherwise allowed under this part for
18 the wages or salaries paid or incurred by the taxpayer upon which
19 the credit is based shall be reduced by the amount of the credit,
20 prior to any reduction required by subdivision (i) or (j).

21 (i) In the case where the credit otherwise allowed under this
22 section exceeds the “net tax” for the taxable year, that portion of
23 the credit that exceeds the “net tax” may be carried over and added
24 to the credit, if any, in the succeeding five taxable years, if
25 necessary, until the credit is exhausted. The credit shall be applied
26 first to the earliest taxable years possible.

27 (j) (1) The amount of the credit otherwise allowed under this
28 section and Section 17053.70, including any credit carryover from
29 prior years, that may reduce the “net tax” for the taxable year shall
30 not exceed the amount of tax which would be imposed on the
31 taxpayer’s business income attributable to the enterprise zone
32 determined as if that attributable income represented all of the
33 income of the taxpayer subject to tax under this part.

34 (2) Attributable income shall be that portion of the taxpayer’s
35 California source business income that is apportioned to the
36 enterprise zone. For that purpose, the taxpayer’s business income
37 attributable to sources in this state first shall be determined in
38 accordance with Chapter 17 (commencing with Section 25101) of
39 Part 11. That business income shall be further apportioned to the
40 enterprise zone in accordance with Article 2 (commencing with

1 Section 25120) of Chapter 17 of Part 11, modified for purposes
2 of this section in accordance with paragraph (3).

3 (3) Business income shall be apportioned to the enterprise zone
4 by multiplying the total California business income of the taxpayer
5 by a fraction, the numerator of which is the property factor plus
6 the payroll factor, and the denominator of which is two. For
7 purposes of this paragraph:

8 (A) The property factor is a fraction, the numerator of which is
9 the average value of the taxpayer's real and tangible personal
10 property owned or rented and used in the enterprise zone during
11 the taxable year, and the denominator of which is the average value
12 of all the taxpayer's real and tangible personal property owned or
13 rented and used in this state during the taxable year.

14 (B) The payroll factor is a fraction, the numerator of which is
15 the total amount paid by the taxpayer in the enterprise zone during
16 the taxable year for compensation, and the denominator of which
17 is the total compensation paid by the taxpayer in this state during
18 the taxable year.

19 (4) The portion of any credit remaining, if any, after application
20 of this subdivision, shall be carried over to succeeding taxable
21 years, if necessary, until the credit is exhausted, as if it were an
22 amount exceeding the "net tax" for the taxable year, as provided
23 in subdivision (i). However, the portion of any credit remaining
24 for carryover to taxable years beginning on or after January 1,
25 2014, if any, after application of this subdivision, shall be carried
26 over only to the succeeding five taxable years if necessary, until
27 the credit is exhausted, as if it were an amount exceeding the "net
28 tax" for the taxable year, as provided in subdivision (i).

29 (k) The changes made to this section by the act adding this
30 subdivision shall apply to taxable years beginning on or after
31 January 1, 1997.

32 (l) (1) Except as provided in paragraph (2), this section shall
33 cease to be operative for taxable years beginning on or after January
34 1, 2014, and shall be repealed on December 1, 2019.

35 (2) The section shall continue to apply with respect to qualified
36 employees who are employed by the qualified taxpayer within the
37 enterprise zone within the 60-month period immediately preceding
38 January 1, 2014, and qualified wages paid or incurred with respect
39 to those qualified employees shall continue to qualify for the credit
40 under this section for taxable years beginning on or after January

1 1, 2014, in accordance with this section, as amended by the act
2 adding this subdivision.

3 ~~SEC. 14.~~

4 *SEC. 15.* Section 17053.75 of the Revenue and Taxation Code
5 is amended to read:

6 17053.75. (a) There shall be allowed as a credit against the
7 “net tax” (as defined by Section 17039) for the taxable year an
8 amount equal to five percent of the qualified wages received by
9 the taxpayer during the taxable year.

10 (b) For purposes of this section:

11 (1) “Qualified employee” means a taxpayer who meets both of
12 the following:

13 (A) Is described in clauses (i) and (ii) of subparagraph (A) of
14 paragraph (4) of subdivision (b) of Section 17053.74.

15 (B) Is not an employee of the federal government or of this state
16 or of any political subdivision of this state.

17 (2) (A) “Qualified wages” means “wages,” as defined in
18 subsection (b) of Section 3306 of the Internal Revenue Code,
19 attributable to services performed for an employer with respect to
20 whom the taxpayer is a qualified employee in an amount that does
21 not exceed one and one-half times the dollar limitation specified
22 in that subsection.

23 (B) “Qualified wages” does not include any compensation
24 received from the federal government or this state or any political
25 subdivision of this state.

26 (C) “Qualified wages” does not include any wages received on
27 or after the date the enterprise zone designation expires, is no
28 longer binding, or becomes inoperative.

29 (3) “Enterprise zone” means any area designated as an enterprise
30 zone pursuant to Chapter 12.8 (commencing with Section 7070)
31 of Division 7 of Title 1 of the Government Code.

32 (c) For each dollar of income received by the taxpayer in excess
33 of qualified wages, as defined in this section, the credit shall be
34 reduced by nine cents (\$0.09).

35 (d) The amount of the credit allowed by this section in any
36 taxable year shall not exceed the amount of tax that would be
37 imposed on the taxpayer’s income attributable to employment
38 within the enterprise zone as if that income represented all of the
39 income of the taxpayer subject to tax under this part.

1 (e) This section shall cease to be operative for taxable years
2 beginning on or after January 1, 2014, and shall be repealed on
3 December 1, 2014.

4 ~~SEC. 15.~~

5 *SEC. 16.* Section 17053.80 of the Revenue and Taxation Code,
6 as added by Section 3 of Chapter 10 of the ~~3rd~~ *Third* Extraordinary
7 Session of the Statutes of 2009, is repealed.

8 ~~SEC. 16.~~

9 *SEC. 17.* Section 17053.80 of the Revenue and Taxation Code,
10 as added by Section 3 of Chapter ~~10~~ *17* of the ~~3rd~~ *Third*
11 Extraordinary Session of the Statutes of 2009, is amended to read:

12 17053.80. (a) For each taxable year beginning on or after
13 January 1, 2009, there shall be allowed as a credit against the “net
14 tax,” as defined in Section 17039, three thousand dollars (\$3,000)
15 for each net increase in qualified full-time employees, as specified
16 in subdivision (c), hired during the taxable year by a qualified
17 employer.

18 (b) For purposes of this section:

19 (1) “Acquired” includes any gift, inheritance, transfer incident
20 to divorce, or any other transfer, whether or not for consideration.

21 (2) “Qualified full-time employee” means:

22 (A) A qualified employee who was paid qualified wages by the
23 qualified employer for services of not less than an average of 35
24 hours per week.

25 (B) A qualified employee who was a salaried employee and
26 was paid compensation during the taxable year for full-time
27 employment, within the meaning of Section 515 of the Labor Code,
28 by the qualified employer.

29 (3) A “qualified employee” shall not include any of the
30 following:

31 (A) An employee certified as a qualified employee in an
32 enterprise zone designated in accordance with Chapter 12.8
33 (commencing with Section 7070) of Division 7 of Title 1 of the
34 Government Code.

35 (B) An employee certified as a qualified disadvantaged
36 individual in a manufacturing enhancement area designated in
37 accordance with Section 7073.8 of the Government Code.

38 (C) An employee certified as a qualified employee in a targeted
39 tax area designated in accordance with Section 7097 of the
40 Government Code.

- 1 (D) An employee certified as a qualified disadvantaged
2 individual or a qualified displaced employee in a local agency
3 military base recovery area (LAMBRA) designated in accordance
4 with Chapter 12.97 (commencing with Section 7105) of Division
5 7 of Title 1 of the Government Code.
- 6 (E) An employee whose wages are included in calculating any
7 other credit allowed under this part.
- 8 (4) “Qualified employer” means a taxpayer that, as of the last
9 day of the preceding taxable year, employed a total of 20 or fewer
10 employees.
- 11 (5) “Qualified wages” means wages subject to Division 6
12 (commencing with Section 13000) of the Unemployment Insurance
13 Code.
- 14 (6) “Annual full-time equivalent” means either of the following:
 - 15 (A) In the case of a full-time employee paid hourly qualified
16 wages, “annual full-time equivalent” means the total number of
17 hours worked for the taxpayer by the employee (not to exceed
18 2,000 hours per employee) divided by 2,000.
 - 19 (B) In the case of a salaried full-time employee, “annual
20 full-time equivalent” means the total number of weeks worked for
21 the taxpayer by the employee divided by 52.
- 22 (c) The net increase in qualified full-time employees of a
23 qualified employer shall be determined as provided by this
24 subdivision:
 - 25 (1) (A) The net increase in qualified full-time employees shall
26 be determined on an annual full-time equivalent basis by
27 subtracting from the amount determined in subparagraph (C) the
28 amount determined in subparagraph (B).
 - 29 (B) The total number of qualified full-time employees employed
30 in the preceding taxable year by the taxpayer and by any trade or
31 business acquired by the taxpayer during the current taxable year.
 - 32 (C) The total number of full-time employees employed in the
33 current taxable year by the taxpayer and by any trade or business
34 acquired during the current taxable year.
 - 35 (2) For taxpayers who first commence doing business in this
36 state during the taxable year, the number of full-time employees
37 for the immediately preceding prior taxable year shall be zero.
 - 38 (d) In the case where the credit allowed by this section exceeds
39 the “net tax,” the excess may be carried over to reduce the “net

1 tax” in the following year, and succeeding seven years if necessary,
2 until the credit is exhausted.

3 (e) Any deduction otherwise allowed under this part for qualified
4 wages shall not be reduced by the amount of the credit allowed
5 under this section.

6 (f) For purposes of this section:

7 (1) All employees of the trades or businesses that are treated as
8 related under either Section 267, 318, or 707 of the Internal
9 Revenue Code shall be treated as employed by a single taxpayer.

10 (2) In determining whether the taxpayer has first commenced
11 doing business in this state during the taxable year, the provisions
12 of subdivision (f) of Section 17276, without application of
13 paragraph (7) of that subdivision, shall apply.

14 (g) (1) (A) Credit under this section and Section 23623 shall
15 be allowed only for credits claimed on timely filed original returns
16 received by the Franchise Tax Board on or before the cut-off date
17 established by the Franchise Tax Board.

18 (B) For purposes of this paragraph, the cut-off date shall be the
19 last day of the calendar quarter within which the Franchise Tax
20 Board estimates it will have received timely filed original returns
21 claiming credits under this section and Section 23623 that
22 cumulatively total four hundred million dollars (\$400,000,000)
23 for all taxable years.

24 (2) The date a return is received shall be determined by the
25 Franchise Tax Board.

26 (3) (A) The determinations of the Franchise Tax Board with
27 respect to the cut-off date, the date a return is received, and whether
28 a return has been timely filed for purposes of this subdivision may
29 not be reviewed in any administrative or judicial proceeding

30 (B) Any disallowance of a credit claimed due to a determination
31 under this subdivision, including the application of the limitation
32 specified in paragraph (1), shall be treated as a mathematical error
33 appearing on the return. Any amount of tax resulting from such
34 disallowance may be assessed by the Franchise Tax Board in the
35 same manner as provided by Section 19051.

36 (4) The Franchise Tax Board shall periodically provide notice
37 on its Web site with respect to the amount of credit under this
38 section and Section 23623 claimed on timely filed original returns
39 received by the Franchise Tax Board.

1 (h) (1) The Franchise Tax Board may prescribe rules, guidelines
2 or procedures necessary or appropriate to carry out the purposes
3 of this section, including any guidelines regarding the limitation
4 on total credits allowable under this section and Section 23623
5 and guidelines necessary to avoid the application of paragraph (2)
6 of subdivision (f) through split-ups, shell corporations, partnerships,
7 tiered ownership structures, or otherwise.

8 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
9 Division 3 of Title 2 of the Government Code does not apply to
10 any standard, criterion, procedure, determination, rule, notice, or
11 guideline established or issued by the Franchise Tax Board
12 pursuant to this section.

13 (i) This section shall cease to be operative for taxable years
14 beginning on or after January 1, 2014, and shall be repealed on
15 December 1, 2014.

16 ~~SEC. 17.~~

17 *SEC. 18.* Section 17059.2 is added to the Revenue and Taxation
18 Code, to read:

19 17059.2. (a) (1) For each taxable year beginning on and after
20 January 1, 2014, and before January 1, 2025, there shall be allowed
21 as a credit against the “net tax,” as defined in Section 17039, an
22 amount as determined by the committee pursuant to paragraph (2)
23 and approved pursuant to Section 18410.2.

24 (2) The amount of credit allocated to a taxpayer for a taxable
25 year pursuant to this section shall be as set forth in a written
26 agreement between GO-Biz and the taxpayer and shall be based
27 ~~on, but not limited to,~~ on the following factors:

28 (A) The number of jobs the taxpayer will create or retain in this
29 state.

30 (B) The compensation paid or proposed to be paid by the
31 taxpayer to its employees, including wages and fringe benefits.

32 (C) The amount of investment in this state by the taxpayer.

33 (D) The extent of unemployment in the area in which the
34 taxpayer’s project or business is proposed or located.

35 (E) The incentives available to the taxpayer in this state,
36 including incentives from the state, local government, and other
37 entities.

38 (F) The incentives available to the taxpayer in other states.

39 (G) The duration of the proposed project and the duration the
40 taxpayer commits to remain in this state.

- 1 (H) The overall economic impact in this state of the taxpayer’s
2 project or business.
- 3 (I) The strategic importance of the taxpayer’s project or business
4 to the state, region, or locality.
- 5 (J) The opportunity for future growth and expansion in this state
6 by the taxpayer’s business.
- 7 (K) The extent to which the anticipated benefit to the state
8 exceeds the projected benefit to the taxpayer from the tax credit.
- 9 (3) The written agreement entered into pursuant to paragraph
10 (2) shall include:
 - 11 (A) Terms and conditions that include a minimum compensation
12 level and a minimum job retention period.
 - 13 (B) Provisions indicating whether the credit is to be allocated
14 in full upon approval or in increments based on mutually agreed
15 upon milestones when satisfactorily met by the taxpayer.
 - 16 (C) Provisions that allow the committee to recapture the credit,
17 in whole or in part, if the taxpayer fails to fulfill the terms and
18 conditions of the written agreement.
- 19 (b) For purposes of this section:
 - 20 (1) “Committee” means the California Competes Tax Credit
21 Committee established pursuant to Section 18410.2.
 - 22 (2) “GO-Biz” means the Governor’s Office of Business and
23 Economic Development.
- 24 (c) For purposes of this section, GO-Biz shall do the following:
 - 25 (1) Give priority to a taxpayer whose project or business is
26 located or proposed to be located in an area of high unemployment
27 or poverty.
 - 28 (2) Negotiate with a taxpayer the terms and conditions of
29 proposed written agreements that provide the credit allowed
30 pursuant to this section to a taxpayer.
 - 31 (3) Provide the negotiated written agreement to the committee
32 for its approval pursuant to Section 18410.2.
 - 33 (4) Inform the Franchise Tax Board of the terms and conditions
34 of the written agreement upon approval of the written agreement
35 by the committee.
 - 36 (5) Inform the Franchise Tax Board of any recapture, in whole
37 or in part, of a previously allocated credit upon approval of the
38 recapture by the committee.
 - 39 (6) Post on its Internet Web site all of the following:

- 1 (A) The name of each taxpayer allocated a credit pursuant to
- 2 this section.
- 3 (B) The estimated amount of the investment by each taxpayer.
- 4 (C) The estimated number of jobs created or retained.
- 5 (D) The amount of the credit allocated to the taxpayer.
- 6 (E) The amount of the credit recaptured from the taxpayer, if
- 7 applicable.
- 8 (d) For purposes of this section, the Franchise Tax Board shall
- 9 do all of the following:
- 10 (1) (A) Except as provided in subparagraph (B), review the
- 11 books and records of all taxpayers allocated a credit pursuant to
- 12 this section to ensure compliance with the terms and conditions
- 13 of the written agreement between the taxpayer and GO-Biz.
- 14 (B) In the case of a taxpayer that is a “small business,” as
- 15 defined in Section 17053.73, review the books and records of the
- 16 taxpayer allocated a credit pursuant to this section to ensure
- 17 compliance with the terms and conditions of the written agreement
- 18 between the taxpayer and GO-Biz when, in the sole discretion of
- 19 the Franchise Tax Board, a review of those books and records is
- 20 appropriate or necessary in the best interests of the state.
- 21 (2) Notwithstanding Section 19542:
- 22 (A) Notify GO-Biz of a possible breach of the written agreement
- 23 by a taxpayer and provide detailed information regarding the basis
- 24 for that determination.
- 25 (B) Provide information to GO-Biz with respect to whether a
- 26 taxpayer is a “small business,” as defined in Section 17053.73.
- 27 (e) In the case where the credit allowed under this section
- 28 exceeds the “net tax,” as defined in Section ~~17059~~, 17039, for a
- 29 taxable year, the excess credit may be carried over to reduce the
- 30 “net tax” in the following taxable year, and succeeding five taxable
- 31 years, if necessary, until the credit has been exhausted.
- 32 (f) Any recapture, in whole or in part, of a credit approved by
- 33 the committee pursuant to Section 18410.2 shall be treated as a
- 34 mathematical error appearing on the return. Any amount of tax
- 35 resulting from that recapture shall be assessed by the Franchise
- 36 Tax Board in the same manner as provided by Section 19051. The
- 37 amount of tax resulting from the recapture shall be added to the
- 38 tax otherwise due by the taxpayer for the taxable year in which
- 39 the committee’s recapture determination occurred.

1 (g) (1) The aggregate amount of credit that may be allocated
2 in any fiscal year pursuant to this section and Section 23689 shall
3 be an amount equal to the sum of subparagraphs (A), (B), and (C),
4 ~~and less the amount specified in subparagraph (D):~~

5 (A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal
6 year, one hundred fifty million dollars (\$150,000,000) for the
7 2014–15 fiscal year, and two hundred million dollars
8 (\$200,000,000) for each fiscal year from 2015–16 to 2018–19,
9 inclusive.

10 (B) The unallocated credit amount, if any, from the preceding
11 fiscal year.

12 (C) The amount of any previously allocated credits that have
13 been recaptured.

14 ~~(D) The amount by which the exemptions claimed in the prior~~
15 ~~year pursuant to Section 6377.1 plus the amounts claimed in the~~
16 ~~prior year pursuant to this section and Sections 17053.73, 23626,~~
17 ~~and 23689 are less than seven hundred fifty million dollars~~
18 ~~(\$750,000,000).~~

19 *(D) The amount estimated by the Director of Finance, in*
20 *consultation with the Franchise Tax Board and the State Board*
21 *of Equalization, to be necessary to limit the aggregation of the*
22 *estimated amount of exemptions claimed pursuant to Section*
23 *6377.1 and of the amounts estimated to be claimed pursuant to*
24 *this section and Sections 17053.73, 23626, and 23689 to no more*
25 *than seven hundred fifty million dollars (\$750,000,000) for either*
26 *the current fiscal year or for any of the three succeeding fiscal*
27 *years.*

28 *(i) The Director of Finance shall notify the Chairperson of the*
29 *Joint Legislative Budget Committee of the estimated annual*
30 *allocation authorized by this paragraph. Any allocation pursuant*
31 *to these provisions shall be made no sooner than 30 days after*
32 *written notification has been provided to the Chairperson of the*
33 *Joint Legislative Budget Committee and the chairpersons of the*
34 *committees of each house of the Legislature that consider*
35 *appropriation, or not sooner than whatever lesser time the*
36 *Chairperson of the Joint Legislative Budget Committee, or his or*
37 *her designee, may determine.*

38 *(ii) In no event shall the amount estimated in this subparagraph*
39 *be less than zero dollars (\$0).*

1 (2) Each fiscal year, 25 percent of the aggregate amount of the
2 credit that may be allocated pursuant to this section and Section
3 23689 shall be reserved for small business, as defined in Section
4 17053.73 or 23626.

5 (3) Each fiscal year, no more than 20 percent of the aggregate
6 amount of the credit that may be allocated pursuant to this section
7 shall be allocated to any one taxpayer.

8 (h) GO-Biz may prescribe rules and regulations as necessary to
9 carry out the purposes of this section. Any rule or regulation
10 prescribed pursuant to this section may be by adoption of an
11 emergency regulation in accordance with Chapter 3.5 (commencing
12 with Section 11340) of Part 1 of Division 3 of Title 2 of the
13 Government Code.

14 ~~(i) (1) A written agreement between GO-Biz and a taxpayer~~
15 ~~with respect to the credit authorized by this section shall not~~
16 ~~restrict, broaden, or otherwise alter the ability to prohibit the~~
17 ~~taxpayer to assign that credit or any portion thereof in accordance~~
18 ~~with Section 23663.~~

19 ~~(2)~~

20 (i) A written agreement between GO-Biz and a taxpayer with
21 respect to the credit authorized by this section shall comply with
22 existing law on the date the agreement is executed.

23 (j) (1) *Upon the effective date of this section, the Department*
24 *of Finance shall estimate the total dollar amount of credits that*
25 *will be claimed under this section with respect to each fiscal year*
26 *from the 2013–14 fiscal year to the 2024–25 fiscal year, inclusive.*

27 (2) *The Franchise Tax Board shall annually provide to the Joint*
28 *Legislative Budget Committee, by no later than March 1, a report*
29 *of the total dollar amount of the credits claimed under this section*
30 *with respect to the relevant fiscal year. The report shall compare*
31 *the total dollar amount of credits claimed under this section with*
32 *respect to that fiscal year with the department's estimate with*
33 *respect to that same fiscal year. If the total dollar amount of credits*
34 *claimed for the fiscal year is less than the estimate for that fiscal*
35 *year, the report shall identify options for increasing annual claims*
36 *of the credit so as to meet estimated amounts.*

37 ~~(j)~~

38 (k) This section is repealed on December 1, 2025.

1 ~~SEC. 18.~~

2 *SEC. 19.* Section 17235 of the Revenue and Taxation Code is
3 amended to read:

4 17235. (a) There shall be allowed as a deduction the amount
5 of net interest received by the taxpayer before January 1, 2014, in
6 payment on indebtedness of a person or entity engaged in the
7 conduct of a trade or business located in an enterprise zone.

8 (b) A deduction shall not be allowed under this section unless
9 at the time the indebtedness is incurred each of the following
10 requirements are met:

11 (1) The trade or business is located solely within an enterprise
12 zone.

13 (2) The indebtedness is incurred solely in connection with
14 activity within the enterprise zone.

15 (3) The taxpayer has no equity or other ownership interest in
16 the debtor.

17 (c) “Enterprise zone” means an area designated as an enterprise
18 zone pursuant to Chapter 12.8 (commencing with Section 7070)
19 of Division 7 of Title 1 of the Government Code.

20 (d) This section shall cease to be operative for taxable years
21 beginning on or after January 1, 2014, and shall be repealed on
22 December 1 2014.

23 ~~SEC. 19.~~

24 *SEC. 20.* Section 17267.2 of the Revenue and Taxation Code
25 is amended to read:

26 17267.2. (a) A taxpayer may elect to treat 40 percent of the
27 cost of any Section 17267.2 property as an expense which is not
28 chargeable to a capital account. Any cost so treated shall be allowed
29 as a deduction for the taxable year in which the taxpayer places
30 the Section 17267.2 property in service.

31 (b) In the case of a husband and wife filing separate returns for
32 a taxable year, the applicable amount under subdivision (a) shall
33 be equal to 50 percent of the percentage specified in subdivision
34 (a).

35 (c) (1) An election under this section for any taxable year shall
36 do both of the following:

37 (A) Specify the items of Section 17267.2 property to which the
38 election applies and the percentage of the cost of each of those
39 items that are to be taken into account under subdivision (a).

1 (B) Be made on the taxpayer's original return of the tax imposed
2 by this part for the taxable year.

3 (2) Any election made under this section, and any specification
4 contained in that election, may not be revoked except with the
5 consent of the Franchise Tax Board.

6 (d) (1) For purposes of this section, "Section 17267.2 property"
7 means any recovery property that is:

8 (A) Section 1245 property (as defined in Section 1245(a) (3) of
9 the Internal Revenue Code).

10 (B) Purchased and placed in service by the taxpayer for
11 exclusive use in a trade or business conducted within an enterprise
12 zone designated pursuant to Chapter 12.8 (commencing with
13 Section 7070) of Division 7 of Title 1 of the Government Code.

14 (C) Purchased and placed in service before the date the
15 enterprise zone designation expires, is no longer binding, or
16 becomes inoperative.

17 (2) For purposes of paragraph (1), "purchase" means any
18 acquisition of property, but only if both of the following apply:

19 (A) The property is not acquired from a person whose
20 relationship to the person acquiring it would result in the
21 disallowance of losses under Section 267 or Section 707 (b) of the
22 Internal Revenue Code. However, in applying Section 267(b) and
23 267(c) for purposes of this section, Section 267(c) (4) shall be
24 treated as providing that the family of an individual shall include
25 only the individual's spouse, ancestors, and lineal descendants.

26 (B) The basis of the property in the hands of the person acquiring
27 it is not determined in whole or in part by reference to the adjusted
28 basis of that property in the hands of the person from whom it is
29 acquired.

30 (3) For purposes of this section, the cost of property does not
31 include that portion of the basis of the property that is determined
32 by reference to the basis of other property held at any time by the
33 person acquiring the property.

34 (4) This section shall not apply to estates and trusts.

35 (5) This section shall not apply to any property for which the
36 taxpayer may not make an election for the taxable year under
37 Section 179 of the Internal Revenue Code because of the
38 application of the provisions of Section 179(d) of the Internal
39 Revenue Code.

1 (6) In the case of a partnership, the percentage limitation
2 specified in subdivision (a) shall apply at the partnership level and
3 at the partner level.

4 (e) For purposes of this section, “taxpayer” means a person or
5 entity who conducts a trade or business within an enterprise zone
6 designated pursuant to Chapter 12.8 (commencing with Section
7 7070) of Division 7 of Title 1 of the Government Code.

8 (f) Any taxpayer who elects to be subject to this section shall
9 not be entitled to claim for the same property, the deduction under
10 Section 179 of the Internal Revenue Code, relating to an election
11 to expense certain depreciable business assets. However, the
12 taxpayer may claim depreciation by any method permitted by
13 Section 168 of the Internal Revenue Code, commencing with the
14 taxable year following the taxable year in which the Section
15 17267.2 property is placed in service.

16 (g) The aggregate cost of all Section 17267.2 property that may
17 be taken into account under subdivision (a) for any taxable year
18 shall not exceed the following applicable amount for the taxable
19 year of the designation of the relevant enterprise zone and taxable
20 years thereafter:

| | | |
|----|------------------------------------|----------------|
| 21 | | |
| 22 | | The applicable |
| 23 | | amount is: |
| 24 | Taxable year of designation | \$100,000 |
| 25 | 1st taxable year thereafter | 100,000 |
| 26 | 2nd taxable year thereafter | 75,000 |
| 27 | 3rd taxable year thereafter | 75,000 |
| 28 | Each taxable year thereafter | 50,000 |
| 29 | | |

30 (h) Any amounts deducted under subdivision (a) with respect
31 to property subject to this section that ceases to be used in the
32 taxpayer’s trade or business within an enterprise zone at any time
33 before the close of the second taxable year after the property is
34 placed in service shall be included in income in the taxable year
35 in which the property ceases to be so used.

36 (i) This section shall cease to be operative for taxable years
37 beginning on or after January 1, 2014, and shall be repealed on
38 December 1, 2014.

1 ~~SEC. 20.~~

2 *SEC. 21.* Section 17267.6 of the Revenue and Taxation Code
3 is amended to read:

4 17267.6. (a) For each taxable year beginning on or after
5 January 1, 1998, a qualified taxpayer may elect to treat 40 percent
6 of the cost of any Section 17267.6 property as an expense that is
7 not chargeable to a capital account. Any cost so treated shall be
8 allowed as a deduction for the taxable year in which the qualified
9 taxpayer places the Section 17267.6 property in service.

10 (b) In the case of a husband and wife filing separate returns for
11 a taxable year, the applicable amount under subdivision (a) shall
12 be equal to 50 percent of the percentage specified in subdivision
13 (a).

14 (c) (1) An election under this section for any taxable year shall
15 do both of the following:

16 (A) Specify the items of Section 17267.6 property to which the
17 election applies and the percentage of the cost of each of those
18 items that are to be taken into account under subdivision (a).

19 (B) Be made on the qualified taxpayer's original return of the
20 tax imposed by this part for the taxable year.

21 (2) Any election made under this section, and any specification
22 contained in that election, may not be revoked except with the
23 consent of the Franchise Tax Board.

24 (d) (1) For purposes of this section, "Section 17267.6 property"
25 means any recovery property that is:

26 (A) Section 1245 property (as defined in Section 1245(a)(3) of
27 the Internal Revenue Code).

28 (B) Purchased and placed in service by the qualified taxpayer
29 for exclusive use in a trade or business conducted within a targeted
30 tax area designated pursuant to Chapter 12.93 (commencing with
31 Section 7097) of Division 7 of Title 1 of the Government Code.

32 (C) Purchased and placed in service before the date the targeted
33 tax area designation expires, is revoked, is no longer binding, or
34 becomes inoperative.

35 (2) For purposes of paragraph (1), "purchase" means any
36 acquisition of property, but only if both of the following apply:

37 (A) The property is not acquired from a person whose
38 relationship to the person acquiring it would result in the
39 disallowance of losses under Section 267 or Section 707(b) of the
40 Internal Revenue Code. However, in applying Sections 267(b) and

1 267(c) for purposes of this section, Section 267(c)(4) shall be
2 treated as providing that the family of an individual shall include
3 only the individual's spouse, ancestors, and lineal descendants.

4 (B) The basis of the property in the hands of the person acquiring
5 it is not determined in whole or in part by reference to the adjusted
6 basis of that property in the hands of the person from whom it is
7 acquired.

8 (3) For purposes of this section, the cost of property does not
9 include that portion of the basis of the property that is determined
10 by reference to the basis of other property held at any time by the
11 person acquiring the property.

12 (4) This section shall not apply to estates and trusts.

13 (5) This section shall not apply to any property for which the
14 qualified taxpayer may not make an election for the taxable year
15 under Section 179 of the Internal Revenue Code because of the
16 application of the provisions of Section 179(d) of the Internal
17 Revenue Code.

18 (6) In the case of a partnership, the percentage limitation
19 specified in subdivision (a) shall apply at the partnership level and
20 at the partner level.

21 (e) (1) For purposes of this section, "qualified taxpayer" means
22 a person or entity that meets both of the following:

23 (A) Is engaged in a trade or business within a targeted tax area
24 designated pursuant to Chapter 12.93 (commencing with Section
25 7097) of Division 7 of Title 1 of the Government Code.

26 (B) Is engaged in those lines of business described in Codes
27 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
28 inclusive; 4500 to 4599, inclusive, and 4700 to 5199, inclusive,
29 of the Standard Industrial Classification (SIC) Manual published
30 by the United State Office of Management and Budget, 1987
31 edition.

32 (2) In the case of any pass-through entity, the determination of
33 whether a taxpayer is a qualified taxpayer under this section shall
34 be made at the entity level and any deduction under this section
35 or Section 24356.6 shall be allowed to the pass-through entity and
36 passed through to the partners or shareholders in accordance with
37 applicable provisions of this part of Part 11 (commencing with
38 Section 23001). For purposes of this subparagraph, the term
39 "pass-through entity" means any partnership or S corporation.

1 (f) Any qualified taxpayer who elects to be subject to this section
 2 shall not be entitled to claim for the same property, the deduction
 3 under Section 179 of the Internal Revenue Code, relating to an
 4 election to expense certain depreciable business assets. However,
 5 the qualified taxpayer may claim depreciation by any method
 6 permitted by Section 168 of the Internal Revenue Code,
 7 commencing with the taxable year following the taxable year in
 8 which the Section 17267.6 property is placed in service.

9 (g) The aggregate cost of all Section 17267.6 property that may
 10 be taken into account under subdivision (a) for any taxable year
 11 shall not exceed the following applicable amount for the taxable
 12 year of the designation of the relevant targeted tax area and taxable
 13 years thereafter:

| | | |
|----|------------------------------------|----------------|
| 14 | | |
| 15 | | The applicable |
| 16 | | amount is: |
| 17 | Taxable year of designation | \$100,000 |
| 18 | 1st taxable year thereafter | 100,000 |
| 19 | 2nd taxable year thereafter | 75,000 |
| 20 | 3rd taxable year thereafter | 75,000 |
| 21 | Each taxable year thereafter | 50,000 |

22
 23 (h) Any amounts deducted under subdivision (a) with respect
 24 to Section 17267.6 property that ceases to be used in the qualified
 25 taxpayer’s trade or business within a targeted tax area at any time
 26 before the close of the second taxable year after the property is
 27 placed in service shall be included in income in the taxable year
 28 in which the property ceases to be so used.

29 (i) This section shall cease to be operative for taxable years
 30 beginning on or after January 1, 2014, and shall be repealed on
 31 December 1, 2014.

32 ~~SEC. 21:~~

33 *SEC. 22.* Section 17268 of the Revenue and Taxation Code is
 34 amended to read:

35 17268. (a) For each taxable year beginning on or after January
 36 1, 1995, a taxpayer may elect to treat 40 percent of the cost of any
 37 Section 17268 property as an expense that is not chargeable to the
 38 capital account. Any cost so treated shall be allowed as a deduction
 39 for the taxable year in which the taxpayer places the Section 17268
 40 property in service.

1 (b) In the case of a husband or wife filing separate returns for
2 a taxable year in which a spouse is entitled to the deduction under
3 subdivision (a), the applicable amount shall be equal to 50 percent
4 of the amount otherwise determined under subdivision (a).

5 (c) (1) An election under this section for any taxable year shall
6 meet both of the following requirements:

7 (A) Specify the items of Section 17268 property to which the
8 election applies and the portion of the cost of each of those items
9 that is to be taken into account under subdivision (a).

10 (B) Be made on the taxpayer's return of the tax imposed by this
11 part for the taxable year.

12 (2) Any election made under this section, and any specification
13 contained in that election, may not be revoked except with the
14 consent of the Franchise Tax Board.

15 (d) (1) For purposes of this section, "Section 17268 property"
16 means any recovery property that is each of the following:

17 (A) Section 1245 property (as defined in Section 1245(a)(3) of
18 the Internal Revenue Code).

19 (B) Purchased by the taxpayer for exclusive use in a trade or
20 business conducted within a LAMBRA.

21 (C) Purchased before the date the LAMBRA designation expires,
22 is no longer binding, or becomes inoperative.

23 (2) For purposes of paragraph (1), "purchase" means any
24 acquisition of property, but only if both of the following apply:

25 (A) The property is not acquired from a person whose
26 relationship to the person acquiring it would result in the
27 disallowance of losses under Section 267 or 707(b) of the Internal
28 Revenue Code (but, in applying Section 267(b) and Section 267(c)
29 of the Internal Revenue Code for purposes of this section, Section
30 267(c)(4) of the Internal Revenue Code shall be treated as
31 providing that the family of an individual shall include only his or
32 her spouse, ancestors, and lineal descendants).

33 (B) The basis of the property in the hands of the person acquiring
34 it is not determined by either of the following:

35 (i) In whole or in part by reference to the adjusted basis of the
36 property in the hands of the person from whom acquired.

37 (ii) Under Section 1014 of the Internal Revenue Code, relating
38 to basis of property acquired from a decedent.

39 (3) For purposes of this section, the cost of property does not
40 include that portion of the basis of the property that is determined

1 by reference to the basis of other property held at any time by the
2 person acquiring the property.

3 (4) This section shall not apply to estates and trusts.

4 (5) This section shall not apply to any property for which the
5 taxpayer may not make an election for the taxable year under
6 Section 179 of the Internal Revenue Code because of the provisions
7 of Section 179(d) of the Internal Revenue Code.

8 (6) In the case of a partnership, the dollar limitation in
9 subdivision (f) shall apply at the partnership level and at the partner
10 level.

11 (7) This section shall not apply to any property described in
12 Section 168(f) of the Internal Revenue Code, relating to property
13 to which Section 168 of the Internal Revenue Code does not apply.

14 (e) For purposes of this section:

15 (1) “LAMBRA” means a local agency military base recovery
16 area designated in accordance with the provisions of Section 7114
17 of the Government Code.

18 (2) “Taxpayer” means a taxpayer that conducts a trade or
19 business within a LAMBRA and, for the first two taxable years,
20 has a net increase in jobs (defined as 2,000 paid hours per employee
21 per year) of one or more employees in the LAMBRA.

22 (A) The net increase in the number of jobs shall be determined
23 by subtracting the total number of full-time employees (defined
24 as 2,000 paid hours per employee per year) the taxpayer employed
25 in this state in the taxable year prior to commencing business
26 operations in the LAMBRA from the total number of full-time
27 employees the taxpayer employed in this state during the second
28 taxable year after commencing business operations in the
29 LAMBRA. For taxpayers who commence doing business in this
30 state with their LAMBRA business operation, the number of
31 employees for the taxable year prior to commencing business
32 operations in the LAMBRA shall be zero. If the taxpayer has a net
33 increase in jobs in the state, the credit shall be allowed only if one
34 or more full-time employees is employed within the LAMBRA.

35 (B) The total number of employees employed in the LAMBRA
36 shall equal the sum of both of the following:

37 (i) The total number of hours worked in the LAMBRA for the
38 taxpayer by employees (not to exceed 2,000 hours per employee)
39 who are paid an hourly wage divided by 2,000.

1 (ii) The total number of months worked in the LAMBRA for
2 the taxpayer by employees who are salaried employees divided
3 by 12.

4 (C) In the case of a taxpayer who first commences doing
5 business in the LAMBRA during the taxable year, for purposes of
6 clauses (i) and (ii), respectively, of subparagraph (B) the divisors
7 “2,000” and “12” shall be multiplied by a fraction, the numerator
8 of which is the number of months of the taxable year that the
9 taxpayer was doing business in the LAMBRA and the denominator
10 of which is 12.

11 (f) The aggregate cost of all Section 17268 property that may
12 be taken into account under subdivision (a) for any taxable year
13 shall not exceed the following applicable amounts for the taxable
14 year of the designation of the relevant LAMBRA and taxable years
15 thereafter:

| | | |
|----|------------------------------------|----------------|
| 16 | | |
| 17 | | The applicable |
| 18 | | amount is: |
| 19 | Taxable year of designation | \$100,000 |
| 20 | 1st taxable year thereafter | 100,000 |
| 21 | 2nd taxable year thereafter | 75,000 |
| 22 | 3rd taxable year thereafter | 75,000 |
| 23 | Each taxable year thereafter | 50,000 |
| 24 | | |

25 (g) This section shall apply only to property that is used
26 exclusively in a trade or business conducted within a LAMBRA.

27 (h) (1) Any amounts deducted under subdivision (a) with respect
28 to property that ceases to be used in the trade or business within
29 a LAMBRA at any time before the close of the second taxable
30 year after the property was placed in service shall be included in
31 income for that year.

32 (2) At the close of the second taxable year, if the taxpayer has
33 not increased the number of its employees as determined by
34 paragraph (2) of subdivision (e), then the amount of the deduction
35 previously claimed shall be added to the taxpayer’s taxable income
36 for the taxpayer’s second taxable year.

37 (i) Any taxpayer who elects to be subject to this section shall
38 not be entitled to claim for the same property the deduction under
39 Section 179 of the Internal Revenue Code, relating to an election
40 to expense certain depreciable business assets.

1 (j) This section shall cease to be operative for taxable years
2 beginning on or after January 1, 2014, and shall be repealed on
3 December 1, 2014.

4 ~~SEC. 22.~~

5 *SEC. 23.* Section 17276.2 of the Revenue and Taxation Code
6 is amended to read:

7 17276.2. (a) The term “qualified taxpayer” as used in Section
8 17276.1 includes a person or entity engaged in the conduct of a
9 trade or business within an enterprise zone designated pursuant to
10 Chapter 12.8 (commencing with Section 7070) of Division 7 of
11 Title 1 of the Government Code. For purposes of this subdivision,
12 all of the following shall apply:

13 (1) A net operating loss shall not be a net operating loss
14 carryback to any taxable year and a net operating loss for any
15 taxable year beginning on or after the date that the area in which
16 the taxpayer conducts a trade or business is designated as an
17 enterprise zone shall be a net operating loss carryover to each of
18 the 15 taxable years following the taxable year of loss.

19 (2) For purposes of this subdivision:

20 (A) “Net operating loss” means the loss determined under
21 Section 172 of the Internal Revenue Code, as modified by Section
22 17276.1, attributable to the taxpayer’s business activities within
23 the enterprise zone (as defined in Chapter 12.8 (commencing with
24 Section 7070) of Division 7 of Title 1 of the Government Code)
25 prior to the enterprise zone expiration date. That attributable loss
26 shall be determined in accordance with Chapter 17 (commencing
27 with Section 25101) of Part 11, modified for purposes of this
28 subdivision, as follows:

29 (i) Loss shall be apportioned to the enterprise zone by
30 multiplying total loss from the business by a fraction, the numerator
31 of which is the property factor plus the payroll factor, and the
32 denominator of which is two.

33 (ii) “The enterprise zone” shall be substituted for “this state.”

34 (B) A net operating loss carryover shall be a deduction only
35 with respect to the taxpayer’s business income attributable to the
36 enterprise zone as defined in Chapter 12.8 (commencing with
37 Section 7070) of Division 7 of Title 1 of the Government Code.

38 (C) Attributable income is that portion of the taxpayer’s
39 California source business income that is apportioned to the
40 enterprise zone. For that purpose, the taxpayer’s business income

1 attributable to sources in this state first shall be determined in
2 accordance with Chapter 17 (commencing with Section 25101) of
3 Part 11. That business income shall be further apportioned to the
4 enterprise zone in accordance with Article 2 (commencing with
5 Section 25120) of Chapter 17 of Part 11, modified for purposes
6 of this subdivision as follows:

7 (i) Business income shall be apportioned to the enterprise zone
8 by multiplying the total California business income of the taxpayer
9 by a fraction, the numerator of which is the property factor plus
10 the payroll factor, and the denominator of which is two. For
11 purposes of this clause:

12 (I) The property factor is a fraction, the numerator of which is
13 the average value of the taxpayer's real and tangible personal
14 property owned or rented and used in the enterprise zone during
15 the taxable year, and the denominator of which is the average value
16 of all the taxpayer's real and tangible personal property owned or
17 rented and used in this state during the taxable year.

18 (II) The payroll factor is a fraction, the numerator of which is
19 the total amount paid by the taxpayer in the enterprise zone during
20 the taxable year for compensation, and the denominator of which
21 is the total compensation paid by the taxpayer in this state during
22 the taxable year.

23 (ii) If a loss carryover is allowable pursuant to this section for
24 any taxable year after the enterprise zone designation has expired,
25 the enterprise zone shall be deemed to remain in existence for
26 purposes of computing the limitation set forth in subparagraph (B)
27 and allowing a net operating loss deduction.

28 (D) "Enterprise zone expiration date" means the date the
29 enterprise zone designation expires, is no longer binding, or
30 becomes inoperative.

31 (3) The changes made to this subdivision by the act adding this
32 paragraph shall apply to taxable years beginning on or after January
33 1, 1998.

34 (b) A taxpayer who qualifies as a "qualified taxpayer" under
35 one or more sections shall, for the taxable year of the net operating
36 loss and any taxable year to which that net operating loss may be
37 carried, designate on the original return filed for each year the
38 section which applies to that taxpayer with respect to that net
39 operating loss. If the taxpayer is eligible to qualify under more

1 than one section, the designation is to be made after taking into
2 account subdivision (c).

3 (c) If a taxpayer is eligible to qualify under this section and
4 either Section 17276.4, 17276.5, or 17276.6 as a “qualified
5 taxpayer,” with respect to a net operating loss in a taxable year,
6 the taxpayer shall designate which section is to apply to the
7 taxpayer.

8 (d) Notwithstanding Section 17276, the amount of the loss
9 determined under this section or Section 17276.4, 17276.5, or
10 17276.6 shall be the only net operating loss allowed to be carried
11 over from that taxable year and the designation under subdivision
12 (b) shall be included in the election under Section 17276.1.

13 (e) This section shall cease to be operative for taxable years
14 beginning on or after January 1, 2014, and shall be repealed on
15 December 1, 2014.

16 ~~SEC. 23.~~

17 *SEC. 24.* Section 17276.5 of the Revenue and Taxation Code
18 is amended to read:

19 17276.5. (a) For each taxable year beginning on or after
20 January 1, 1995, the term “qualified taxpayer” as used in Section
21 17276.1 includes a taxpayer engaged in the conduct of a trade or
22 business within a LAMBRA. For purposes of this subdivision, all
23 of the following shall apply:

24 (1) A net operating loss shall not be a net operating loss
25 carryback for any taxable year, and a net operating loss for any
26 taxable year beginning on or after the date the area in which the
27 taxpayer conducts a trade or business is designated a LAMBRA
28 shall be a net operating loss carryover to each following taxable
29 year that ends before the LAMBRA expiration date or to each of
30 the 15 taxable years following the taxable year of loss, if longer.

31 (2) “LAMBRA” means a local agency military base recovery
32 area designated in accordance with Section 7114 of the Government
33 Code.

34 (3) “Taxpayer” means a person or entity that conducts a trade
35 or business within a LAMBRA and, for the first two taxable years,
36 has a net increase in jobs (defined as 2,000 paid hours per employee
37 per year) of one or more employees in the LAMBRA and this state.
38 For purposes of this paragraph:

39 (A) The net increase in the number of jobs shall be determined
40 by subtracting the total number of full-time employees (defined

1 as 2,000 paid hours per employee per year) the taxpayer employed
2 in this state in the taxable year prior to commencing business
3 operations in the LAMBRA from the total number of full-time
4 employees the taxpayer employed in this state during the second
5 taxable year after commencing business operations in the
6 LAMBRA. For taxpayers who commence doing business in this
7 state with their LAMBRA business operation, the number of
8 employees for the taxable year prior to commencing business
9 operations in the LAMBRA shall be zero. The deduction shall be
10 allowed only if the taxpayer has a net increase in jobs in the state,
11 and if one or more full-time employees is employed within the
12 LAMBRA.

13 (B) The total number of employees employed in the LAMBRA
14 shall equal the sum of both of the following:

15 (i) The total number of hours worked in the LAMBRA for the
16 taxpayer by employees (not to exceed 2,000 hours per employee)
17 who are paid an hourly wage divided by 2,000.

18 (ii) The total number of months worked in the LAMBRA for
19 the taxpayer by employees who are salaried employees divided
20 by 12.

21 (C) In the case of a taxpayer who first commences doing
22 business in the LAMBRA during the taxable year, for purposes of
23 clauses (i) and (ii), respectively, of subparagraph (B), the divisors
24 “2,000” and “12” shall be multiplied by a fraction, the numerator
25 of which is the number of months of the taxable year that the
26 taxpayer was doing business in the LAMBRA and the denominator
27 of which is 12.

28 (4) “Net operating loss” means the loss determined under
29 Section 172 of the Internal Revenue Code, as modified by Section
30 17276.1, attributable to the taxpayer’s business activities within a
31 LAMBRA prior to the LAMBRA expiration date. The attributable
32 loss shall be determined in accordance with Chapter 17
33 (commencing with Section 25101) of Part 11, modified for
34 purposes of this section as follows:

35 (A) Loss shall be apportioned to a LAMBRA by multiplying
36 total loss from the business by a fraction, the numerator of which
37 is the property factor plus the payroll factor, and the denominator
38 of which is 2.

39 (B) “The LAMBRA” shall be substituted for “this state.”

1 (5) A net operating loss carryover shall be a deduction only with
2 respect to the taxpayer's business income attributable to a
3 LAMBRA.

4 (6) Attributable income is that portion of the taxpayer's
5 California source business income that is apportioned to the
6 LAMBRA. For that purpose, the taxpayer's business income
7 attributable to sources in this state first shall be determined in
8 accordance with Chapter 17 (commencing with Section 25101) of
9 Part 11. That business income shall be further apportioned to the
10 LAMBRA in accordance with Article 2 (commencing with Section
11 25120) of Chapter 17 of Part 11, modified for purposes of this
12 subdivision as follows:

13 (A) Business income shall be apportioned to a LAMBRA by
14 multiplying total California business income of the taxpayer by a
15 fraction, the numerator of which is the property factor plus the
16 payroll factor, and the denominator of which is two. For purposes
17 of this clause:

18 (i) The property factor is a fraction, the numerator of which is
19 the average value of the taxpayer's real and tangible personal
20 property owned or rented and used in the LAMBRA during the
21 taxable year, and the denominator of which is the average value
22 of all the taxpayer's real and tangible personal property owned or
23 rented and used in this state during the taxable year.

24 (ii) The payroll factor is a fraction, the numerator of which is
25 the total amount paid by the taxpayer in the LAMBRA during the
26 taxable year for compensation, and the denominator of which is
27 the total compensation paid by the taxpayer in this state during the
28 taxable year.

29 (B) If a loss carryover is allowable pursuant to this section for
30 any taxable year after the LAMBRA designation has expired, the
31 LAMBRA shall be deemed to remain in existence for purposes of
32 computing the limitation specified in paragraph (5) and allowing
33 a net operating loss deduction.

34 (7) "LAMBRA expiration date" means the date the LAMBRA
35 designation expires, is no longer binding, or becomes inoperative
36 pursuant to Section 7110 of the Government Code.

37 (b) A taxpayer who qualifies as a "qualified taxpayer" under
38 one or more sections shall, for the taxable year of the net operating
39 loss and any taxable year to which that net operating loss may be
40 carried, designate on the original return filed for each year the

1 section that applies to that taxpayer with respect to that net
2 operating loss. If the taxpayer is eligible to qualify under more
3 than one section, the designation is to be made after taking into
4 account subdivision (c).

5 (c) If a taxpayer is eligible to qualify under this section and
6 either Section 17276.2, 17276.4, or 17276.6 as a “qualified
7 taxpayer,” with respect to a net operating loss in a taxable year,
8 the taxpayer shall designate which section is to apply to the
9 taxpayer.

10 (d) Notwithstanding Section 17276, the amount of the loss
11 determined under this section or Section 17276.2, 17276.4, or
12 17276.6 shall be the only net operating loss allowed to be carried
13 over from that taxable year and the designation under subdivision
14 (b) shall be included in the election under Section 17276.1.

15 (e) This section shall apply to taxable years beginning on or
16 after January 1, 1998.

17 (f) This section shall cease to be operative for taxable years
18 beginning on or after January 1, 2014, and shall be repealed on
19 December 1, 2014.

20 ~~SEC. 24:~~

21 *SEC. 25.* Section 17276.6 of the Revenue and Taxation Code
22 is amended to read:

23 17276.6. (a) For each taxable year beginning on or after
24 January 1, 1998, the term “qualified taxpayer” as used in Section
25 17276.1 includes a person or entity that meets both of the
26 following:

27 (1) Is engaged in a trade or business within a targeted tax area
28 designated pursuant to Chapter 12.93 (commencing with Section
29 7097) of Division 7 of Title 1 of the Government Code.

30 (2) Is engaged in those lines of business described in Codes
31 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
32 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
33 of the Standard Industrial Classification (SIC) Manual published
34 by the United States Office of Management and Budget, 1987
35 edition. In the case of any pass-through entity, the determination
36 of whether a taxpayer is a qualified taxpayer under this section
37 shall be made at the entity level.

38 (b) For purposes of subdivision (a), all of the following shall
39 apply:

1 (1) A net operating loss shall not be a net operating loss
2 carryback to any taxable year and a net operating loss for any
3 taxable year beginning on or after the date that the area in which
4 the qualified taxpayer conducts a trade or business is designated
5 as a targeted tax area shall be a net operating loss carryover to each
6 of the 15 taxable years following the taxable year of loss.

7 (2) “Net operating loss” means the loss determined under
8 Section 172 of the Internal Revenue Code, as modified by Section
9 17276.1, attributable to the qualified taxpayer’s business activities
10 within the targeted tax area (as defined in Chapter 12.93
11 (commencing with Section 7097) of Division 7 of Title 1 of the
12 Government Code) prior to the targeted tax area expiration date.
13 That attributable loss shall be determined in accordance with
14 Chapter 17 (commencing with Section 25101) of Part 11, modified
15 for purposes of this section as follows:

16 (A) Loss shall be apportioned to the targeted tax area by
17 multiplying total loss from the business by a fraction, the numerator
18 of which is the property factor plus the payroll factor, and the
19 denominator of which is 2.

20 (B) “The targeted tax area” shall be substituted for “this state.”

21 (3) A net operating loss carryover shall be a deduction only with
22 respect to the qualified taxpayer’s business income attributable to
23 the targeted tax area as defined in Chapter 12.93 (commencing
24 with Section 7097) of Division 7 of Title 1 of the Government
25 Code.

26 (4) Attributable income shall be that portion of the qualified
27 taxpayer’s California source business income that is apportioned
28 to the targeted tax area. For that purpose, the qualified taxpayer’s
29 business income attributable to sources in this state first shall be
30 determined in accordance with Chapter 17 (commencing with
31 Section 25101) of Part 11. That business income shall be further
32 apportioned to the targeted tax area in accordance with Article 2
33 (commencing with Section 25120) of Chapter 17 of Part 11,
34 modified for purposes of this subdivision as follows:

35 (A) Business income shall be apportioned to the targeted tax
36 area by multiplying the total business income of the taxpayer by
37 a fraction, the numerator of which is the property factor plus the
38 payroll factor, and the denominator of which is two. For purposes
39 of this clause:

1 (i) The property factor is a fraction, the numerator of which is
2 the average value of the taxpayer's real and tangible personal
3 property owned or rented and used in the targeted tax area during
4 the taxable year, and the denominator of which is the average value
5 of all the taxpayer's real and tangible personal property owned or
6 rented and used in this state during the taxable year.

7 (ii) The payroll factor is a fraction, the numerator of which is
8 the total amount paid by the taxpayer in the targeted tax area during
9 the taxable year for compensation, and the denominator of which
10 is the total compensation paid by the taxpayer in this state during
11 the taxable year.

12 (B) If a loss carryover is allowable pursuant to this subdivision
13 for any taxable year after the targeted tax area expiration date, the
14 targeted tax area designation shall be deemed to remain in existence
15 for purposes of computing the limitation specified in subparagraph
16 (B) and allowing a net operating loss deduction.

17 (5) "Targeted tax area expiration date" means the date the
18 targeted tax area designation expires, is revoked, is no longer
19 binding, or becomes inoperative.

20 (c) A taxpayer who qualifies as a "qualified taxpayer" under
21 one or more sections shall, for the taxable year of the net operating
22 loss and any taxable year to which that net operating loss may be
23 carried, designate on the original return filed for each year the
24 section that applies to that taxpayer with respect to that net
25 operating loss. If the taxpayer is eligible to qualify under more
26 than one section, the designation is to be made after taking into
27 account subdivision (d).

28 (d) If a taxpayer is eligible to qualify under this section and
29 either Section 17276.2, 17276.4, or 17276.5 as a "qualified
30 taxpayer," with respect to a net operating loss in a taxable year,
31 the taxpayer shall designate which section is to apply to the
32 taxpayer.

33 (e) Notwithstanding Section 17276, the amount of the loss
34 determined under this section or Section 17276.2, 17276.4, or
35 17276.5 shall be the only net operating loss allowed to be carried
36 over from that taxable year and the designation under subdivision
37 (c) shall be included in the election under Section 17276.1.

38 (f) This section shall apply to taxable years beginning on or
39 after January 1, 1998.

1 (g) This section shall cease to be operative for taxable years
2 beginning on or after January 1, 2014, and shall be repealed on
3 December 1, 2014.

4 ~~SEC. 25.~~

5 *SEC. 26.* Section 18410.2 is added to the Revenue and Taxation
6 Code, to read:

7 18410.2. (a) The California Competes Tax Credit Committee
8 is hereby established. The committee shall consist of the Treasurer,
9 the Director of Finance, *and* the Director of the Governor's Office
10 of Business and Economic Development, ~~and an appointee of the~~
11 ~~Senate and Assembly~~, or their designated representatives, *and one*
12 *appointee each from the Senate and the Assembly.*

13 (b) For purposes of Sections 17059.2 and 23689, the California
14 Competes Tax Credit Committee shall do all of the following:

15 (1) Approve or reject any written agreement for a tax credit
16 allocation by resolution at a duly noticed public meeting held in
17 accordance with the Bagley-Keene Open Meeting Act (Article 9
18 (commencing with Section 11120) of Chapter 1 of Part 1 of
19 Division 3 of Title 2 of the Government Code), but only after
20 receipt of the fully executed written agreement between the
21 taxpayer and the Governor's Office of Business and Economic
22 Development.

23 (2) Approve or reject any recommendation to recapture, in whole
24 or in part, a tax credit allocation by resolution at a duly noticed
25 public meeting held in accordance with the Bagley-Keene Open
26 Meeting Act (Article 9 (commencing with Section 11120) of
27 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
28 Code), but only after receipt of the recommendation from the
29 Governor's Office of Business and Economic Development
30 pursuant to the terms of the fully executed written agreement.

31 ~~SEC. 26.~~

32 *SEC. 27.* Section 19136.8 of the Revenue and Taxation Code
33 is amended to read:

34 19136.8. (a) No addition to tax shall be made under Section
35 19136 with respect to any underpayment of an installment to the
36 extent that the underpayment was created or increased by the
37 disallowance of a credit under subdivision (g) of Section 17053.80.

38 (b) No addition to tax shall be made under Section 19142 with
39 respect to any underpayment of an installment to the extent that

1 the underpayment was created or increased by the disallowance
2 of a credit under subdivision (g) of Section 23623.

3 (c) The Franchise Tax Board shall adopt procedures, forms, and
4 instructions necessary to implement this section in a reasonable
5 manner.

6 (d) This section shall cease to be operative for taxable years
7 beginning on or after January 1, 2014, and shall be repealed on
8 December 1, 2014.

9 ~~SEC. 27.~~

10 *SEC. 28.* Section 23612.2 of the Revenue and Taxation Code
11 is amended to read:

12 23612.2. (a) There shall be allowed as a credit against the
13 “tax” (as defined by Section 23036) for the taxable year an amount
14 equal to the sales or use tax paid or incurred during the taxable
15 year by the taxpayer in connection with the taxpayer’s purchase
16 of qualified property before January 1, 2014.

17 (b) For purposes of this section:

18 (1) “Taxpayer” means a corporation engaged in a trade or
19 business within an enterprise zone.

20 (2) “Qualified property” means:

21 (A) Any of the following:

22 (i) Machinery and machinery parts used for fabricating,
23 processing, assembling, and manufacturing.

24 (ii) Machinery and machinery parts used for the production of
25 renewable energy resources.

26 (iii) Machinery and machinery parts used for either of the
27 following:

28 (I) Air pollution control mechanisms.

29 (II) Water pollution control mechanisms.

30 (iv) Data-processing and communications equipment, including,
31 but not limited to, computers, computer-automated drafting
32 systems, copy machines, telephone systems, and faxes.

33 (v) Motion picture manufacturing equipment central to
34 production and postproduction, including, but not limited to,
35 cameras, audio recorders, and digital image and sound processing
36 equipment.

37 (B) The total cost of qualified property purchased and placed
38 in service in any taxable year that may be taken into account by
39 any taxpayer for purposes of claiming this credit shall not exceed
40 twenty million dollars (\$20,000,000).

1 (C) The qualified property is used by the taxpayer exclusively
2 in an enterprise zone.

3 (D) The qualified property is purchased and placed in service
4 before the date the enterprise zone designation expires, is no longer
5 binding, or becomes inoperative.

6 (3) “Enterprise zone” means the area designated as an enterprise
7 zone pursuant to Chapter 12.8 (commencing with Section 7070)
8 of Division 7 of Title 1 of the Government Code as it read on the
9 effective date of the act amending this section.

10 (c) If the taxpayer has purchased property upon which a use tax
11 has been paid or incurred, the credit provided by this section shall
12 be allowed only if qualified property of a comparable quality and
13 price is not timely available for purchase in this state.

14 (d) In the case where the credit otherwise allowed under this
15 section exceeds the “tax” for the taxable year, that portion of the
16 credit which exceeds the “tax” may be carried over and added to
17 the credit, if any, in the succeeding five taxable years if necessary,
18 until the credit is exhausted. The credit shall be applied first to the
19 earliest taxable years possible.

20 (e) Any taxpayer that elects to be subject to this section shall
21 not be entitled to increase the basis of the qualified property as
22 otherwise required by Section 164(a) of the Internal Revenue Code
23 with respect to sales or use tax paid or incurred in connection with
24 the taxpayer’s purchase of qualified property.

25 (f) (1) The amount of credit otherwise allowed under this
26 section and Section 23622.7, including any credit carryover from
27 prior years, that may reduce the “tax” for the taxable year shall
28 not exceed the amount of tax which would be imposed on the
29 taxpayer’s business income attributable to the enterprise zone
30 determined as if that attributable income represented all of the
31 income of the taxpayer subject to tax under this part.

32 (2) Attributable income shall be that portion of the taxpayer’s
33 California source business income that is apportioned to the
34 enterprise zone. For that purpose, the taxpayer’s business income
35 attributable to sources in this state first shall be determined in
36 accordance with Chapter 17 (commencing with Section 25101).
37 That business income shall be further apportioned to the enterprise
38 zone in accordance with Article 2 (commencing with Section
39 25120) of Chapter 17, modified for purposes of this section in
40 accordance with paragraph (3).

1 (3) Business income shall be apportioned to the enterprise zone
2 by multiplying the total California business income of the taxpayer
3 by a fraction, the numerator of which is the property factor plus
4 the payroll factor, and the denominator of which is two. For
5 purposes of this paragraph:

6 (A) The property factor is a fraction, the numerator of which is
7 the average value of the taxpayer's real and tangible personal
8 property owned or rented and used in the enterprise zone during
9 the taxable year, and the denominator of which is the average value
10 of all the taxpayer's real and tangible personal property owned or
11 rented and used in this state during the taxable year.

12 (B) The payroll factor is a fraction, the numerator of which is
13 the total amount paid by the taxpayer in the enterprise zone during
14 the taxable year for compensation, and the denominator of which
15 is the total compensation paid by the taxpayer in this state during
16 the taxable year.

17 (4) The portion of any credit remaining, if any, after application
18 of this subdivision, shall be carried over to succeeding taxable
19 years if necessary, until the credit is exhausted, as if it were an
20 amount exceeding the "tax" for the taxable year, as provided in
21 subdivision (d). However, the portion of any credit remaining for
22 carryover to taxable years beginning on January 1, 2014, if any,
23 after application of this subdivision, shall be carried over only to
24 the succeeding five taxable years if necessary, until the credit is
25 exhausted, as if it were an amount exceeding the "tax" for the
26 taxable year, as provided in subdivision (d).

27 (g) The amendments made to this section by the act adding this
28 subdivision shall apply to taxable years beginning on or after
29 January 1, 1998.

30 (h) This section is repealed on December 1, 2014.

31 ~~SEC. 28.~~

32 *SEC. 29.* Section 23622.7 of the Revenue and Taxation Code
33 is amended to read:

34 23622.7. (a) There shall be allowed a credit against the "tax"
35 (as defined by Section 23036) to a taxpayer who employs a
36 qualified employee in an enterprise zone during the taxable year.
37 The credit shall be equal to the sum of each of the following:

38 (1) Fifty percent of qualified wages in the first year of
39 employment.

1 (2) Forty percent of qualified wages in the second year of
2 employment.

3 (3) Thirty percent of qualified wages in the third year of
4 employment.

5 (4) Twenty percent of qualified wages in the fourth year of
6 employment.

7 (5) Ten percent of qualified wages in the fifth year of
8 employment.

9 (b) For purposes of this section:

10 (1) “Qualified wages” means:

11 (A) (i) Except as provided in clause (ii), that portion of wages
12 paid or incurred by the taxpayer during the taxable year to qualified
13 employees that does not exceed 150 percent of the minimum wage.

14 (ii) For up to 1,350 qualified employees who are employed by
15 the taxpayer in the Long Beach Enterprise Zone in aircraft
16 manufacturing activities described in Codes 3721 to 3728,
17 inclusive, and Code 3812 of the Standard Industrial Classification
18 (SIC) Manual published by the United States Office of
19 Management and Budget, 1987 edition, “qualified wages” means
20 that portion of hourly wages that does not exceed 202 percent of
21 the minimum wage.

22 (B) Wages received during the 60-month period beginning with
23 the first day the employee commences employment with the
24 taxpayer. Reemployment in connection with any increase, including
25 a regularly occurring seasonal increase, in the trade or business
26 operations of the taxpayer does not constitute commencement of
27 employment for purposes of this section.

28 (C) Qualified wages do not include any wages paid or incurred
29 by the taxpayer on or after the zone expiration date. However,
30 wages paid or incurred with respect to qualified employees who
31 are employed by the taxpayer within the enterprise zone within
32 the 60-month period prior to the zone expiration date shall continue
33 to qualify for the credit under this section after the zone expiration
34 date, in accordance with all provisions of this section applied as
35 if the enterprise zone designation were still in existence and
36 binding.

37 (2) “Minimum wage” means the wage established by the
38 Industrial Welfare Commission as provided for in Chapter 1
39 (commencing with Section 1171) of Part 4 of Division 2 of the
40 Labor Code.

1 (3) “Zone expiration date” means the date the enterprise zone
2 designation expires, is no longer binding, becomes inoperative, or
3 is repealed.

4 (4) (A) “Qualified employee” means an individual who meets
5 all of the following requirements:

6 (i) At least 90 percent of whose services for the taxpayer during
7 the taxable year are directly related to the conduct of the taxpayer’s
8 trade or business located in an enterprise zone.

9 (ii) Performs at least 50 percent of his or her services for the
10 taxpayer during the taxable year in an enterprise zone.

11 (iii) Is hired by the taxpayer after the date of original designation
12 of the area in which services were performed as an enterprise zone.

13 (iv) Is any of the following:

14 (I) Immediately preceding the qualified employee’s
15 commencement of employment with the taxpayer, was a person
16 eligible for services under the federal Job Training Partnership
17 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
18 or is eligible to receive, subsidized employment, training, or
19 services funded by the federal Job Training Partnership Act, or its
20 successor.

21 (II) Immediately preceding the qualified employee’s
22 commencement of employment with the taxpayer, was a person
23 eligible to be a voluntary or mandatory registrant under the Greater
24 Avenues for Independence Act of 1985 (GAIN) provided for
25 pursuant to Article 3.2 (commencing with Section 11320) of
26 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
27 Code, or its successor.

28 (III) Immediately preceding the qualified employee’s
29 commencement of employment with the taxpayer, was an
30 economically disadvantaged individual 14 years of age or older.

31 (IV) Immediately preceding the qualified employee’s
32 commencement of employment with the taxpayer, was a dislocated
33 worker who meets any of the following:

34 (aa) Has been terminated or laid off or who has received a notice
35 of termination or layoff from employment, is eligible for or has
36 exhausted entitlement to unemployment insurance benefits, and
37 is unlikely to return to his or her previous industry or occupation.

38 (bb) Has been terminated or has received a notice of termination
39 of employment as a result of any permanent closure or any
40 substantial layoff at a plant, facility, or enterprise, including an

1 individual who has not received written notification but whose
2 employer has made a public announcement of the closure or layoff.

3 (cc) Is long-term unemployed and has limited opportunities for
4 employment or reemployment in the same or a similar occupation
5 in the area in which the individual resides, including an individual
6 55 years of age or older who may have substantial barriers to
7 employment by reason of age.

8 (dd) Was self-employed (including farmers and ranchers) and
9 is unemployed as a result of general economic conditions in the
10 community in which he or she resides or because of natural
11 disasters.

12 (ee) Was a civilian employee of the Department of Defense
13 employed at a military installation being closed or realigned under
14 the Defense Base Closure and Realignment Act of 1990.

15 (ff) Was an active member of the armed forces or National
16 Guard as of September 30, 1990, and was either involuntarily
17 separated or separated pursuant to a special benefits program.

18 (gg) Is a seasonal or migrant worker who experiences chronic
19 seasonal unemployment and underemployment in the agriculture
20 industry, aggravated by continual advancements in technology and
21 mechanization.

22 (hh) Has been terminated or laid off, or has received a notice
23 of termination or layoff, as a consequence of compliance with the
24 Clean Air Act.

25 (V) Immediately preceding the qualified employee's
26 commencement of employment with the taxpayer, was a disabled
27 individual who is eligible for or enrolled in, or has completed a
28 state rehabilitation plan or is a service-connected disabled veteran,
29 veteran of the Vietnam era, or veteran who is recently separated
30 from military service.

31 (VI) Immediately preceding the qualified employee's
32 commencement of employment with the taxpayer, was an
33 ex-offender. An individual shall be treated as convicted if he or
34 she was placed on probation by a state court without a finding of
35 guilt.

36 (VII) Immediately preceding the qualified employee's
37 commencement of employment with the taxpayer, was a person
38 eligible for or a recipient of any of the following:

39 (aa) Federal Supplemental Security Income benefits.

40 (bb) Aid to Families with Dependent Children.

1 (cc) CalFresh benefits.

2 (dd) State and local general assistance.

3 (VIII) Immediately preceding the qualified employee's
4 commencement of employment with the taxpayer, was a member
5 of a federally recognized Indian tribe, band, or other group of
6 Native American descent.

7 (IX) Immediately preceding the qualified employee's
8 commencement of employment with the taxpayer, was a resident
9 of a targeted employment area (as defined in Section 7072 of the
10 Government Code).

11 (X) An employee who qualified the taxpayer for the enterprise
12 zone hiring credit under former Section 23622 or the program area
13 hiring credit under former Section 23623.

14 (XI) Immediately preceding the qualified employee's
15 commencement of employment with the taxpayer, was a member
16 of a targeted group, as defined in Section 51(d) of the Internal
17 Revenue Code, or its successor.

18 (B) Priority for employment shall be provided to an individual
19 who is enrolled in a qualified program under the federal Job
20 Training Partnership Act or the Greater Avenues for Independence
21 Act of 1985 or who is eligible as a member of a targeted group
22 under the Work Opportunity Tax Credit (Section 51 of the Internal
23 Revenue Code), or its successor.

24 (5) "Taxpayer" means a corporation engaged in a trade or
25 business within an enterprise zone designated pursuant to Chapter
26 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
27 the Government Code.

28 (6) "Seasonal employment" means employment by a taxpayer
29 that has regular and predictable substantial reductions in trade or
30 business operations.

31 (c) The taxpayer shall do both of the following:

32 (1) Obtain from the Employment Development Department, as
33 permitted by federal law, the local county or city Job Training
34 Partnership Act administrative entity, the local county GAIN office
35 or social services agency, or the local government administering
36 the enterprise zone, a certification that provides that a qualified
37 employee meets the eligibility requirements specified in clause
38 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
39 Employment Development Department may provide preliminary
40 screening and referral to a certifying agency. The Employment

1 Development Department shall develop a form for this purpose.
2 The Department of Housing and Community Development shall
3 develop regulations governing the issuance of certificates by local
4 governments pursuant to subdivision (a) of Section 7086 of the
5 Government Code.

6 (2) Retain a copy of the certification and provide it upon request
7 to the Franchise Tax Board.

8 (d) (1) For purposes of this section:

9 (A) All employees of all corporations which are members of
10 the same controlled group of corporations shall be treated as
11 employed by a single taxpayer.

12 (B) The credit, if any, allowable by this section to each member
13 shall be determined by reference to its proportionate share of the
14 expense of the qualified wages giving rise to the credit, and shall
15 be allocated in that manner.

16 (C) For purposes of this subdivision, “controlled group of
17 corporations” means “controlled group of corporations” as defined
18 in Section 1563(a) of the Internal Revenue Code, except that:

19 (i) “More than 50 percent” shall be substituted for “at least 80
20 percent” each place it appears in Section 1563(a)(1) of the Internal
21 Revenue Code.

22 (ii) The determination shall be made without regard to
23 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
24 Revenue Code.

25 (2) If an employer acquires the major portion of a trade or
26 business of another employer (hereinafter in this paragraph referred
27 to as the “predecessor”) or the major portion of a separate unit of
28 a trade or business of a predecessor, then, for purposes of applying
29 this section (other than subdivision (e)) for any calendar year
30 ending after that acquisition, the employment relationship between
31 a qualified employee and an employer shall not be treated as
32 terminated if the employee continues to be employed in that trade
33 or business.

34 (e) (1) (A) If the employment, other than seasonal employment,
35 of any qualified employee with respect to whom qualified wages
36 are taken into account under subdivision (a) is terminated by the
37 taxpayer at any time during the first 270 days of that employment,
38 whether or not consecutive, or before the close of the 270th
39 calendar day after the day in which that employee completes 90
40 days of employment with the taxpayer, the tax imposed by this

1 part for the taxable year in which that employment is terminated
2 shall be increased by an amount equal to the credit allowed under
3 subdivision (a) for that taxable year and all prior taxable years
4 attributable to qualified wages paid or incurred with respect to that
5 employee.

6 (B) If the seasonal employment of any qualified employee, with
7 respect to whom qualified wages are taken into account under
8 subdivision (a) is not continued by the taxpayer for a period of
9 270 days of employment during the 60-month period beginning
10 with the day the qualified employee commences seasonal
11 employment with the taxpayer, the tax imposed by this part, for
12 the taxable year that includes the 60th month following the month
13 in which the qualified employee commences seasonal employment
14 with the taxpayer, shall be increased by an amount equal to the
15 credit allowed under subdivision (a) for that taxable year and all
16 prior taxable years attributable to qualified wages paid or incurred
17 with respect to that qualified employee.

18 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
19 any of the following:

20 (i) A termination of employment of a qualified employee who
21 voluntarily leaves the employment of the taxpayer.

22 (ii) A termination of employment of a qualified employee who,
23 before the close of the period referred to in subparagraph (A) of
24 paragraph (1), becomes disabled and unable to perform the services
25 of that employment, unless that disability is removed before the
26 close of that period and the taxpayer fails to offer reemployment
27 to that employee.

28 (iii) A termination of employment of a qualified employee, if
29 it is determined that the termination was due to the misconduct (as
30 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
31 the California Code of Regulations) of that employee.

32 (iv) A termination of employment of a qualified employee due
33 to a substantial reduction in the trade or business operations of the
34 taxpayer.

35 (v) A termination of employment of a qualified employee, if
36 that employee is replaced by other qualified employees so as to
37 create a net increase in both the number of employees and the
38 hours of employment.

39 (B) Subparagraph (B) of paragraph (1) shall not apply to any
40 of the following:

1 (i) A failure to continue the seasonal employment of a qualified
2 employee who voluntarily fails to return to the seasonal
3 employment of the taxpayer.

4 (ii) A failure to continue the seasonal employment of a qualified
5 employee who, before the close of the period referred to in
6 subparagraph (B) of paragraph (1), becomes disabled and unable
7 to perform the services of that seasonal employment, unless that
8 disability is removed before the close of that period and the
9 taxpayer fails to offer seasonal employment to that qualified
10 employee.

11 (iii) A failure to continue the seasonal employment of a qualified
12 employee, if it is determined that the failure to continue the
13 seasonal employment was due to the misconduct (as defined in
14 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
15 Code of Regulations) of that qualified employee.

16 (iv) A failure to continue seasonal employment of a qualified
17 employee due to a substantial reduction in the regular seasonal
18 trade or business operations of the taxpayer.

19 (v) A failure to continue the seasonal employment of a qualified
20 employee, if that qualified employee is replaced by other qualified
21 employees so as to create a net increase in both the number of
22 seasonal employees and the hours of seasonal employment.

23 (C) For purposes of paragraph (1), the employment relationship
24 between the taxpayer and a qualified employee shall not be treated
25 as terminated by either of the following:

26 (i) By a transaction to which Section 381(a) of the Internal
27 Revenue Code applies, if the qualified employee continues to be
28 employed by the acquiring corporation.

29 (ii) By reason of a mere change in the form of conducting the
30 trade or business of the taxpayer, if the qualified employee
31 continues to be employed in that trade or business and the taxpayer
32 retains a substantial interest in that trade or business.

33 (3) Any increase in tax under paragraph (1) shall not be treated
34 as tax imposed by this part for purposes of determining the amount
35 of any credit allowable under this part.

36 (f) Rules similar to the rules provided in Section 46(e) and (h)
37 of the Internal Revenue Code shall apply to both of the following:

38 (1) An organization to which Section 593 of the Internal
39 Revenue Code applies.

1 (2) A regulated investment company or a real estate investment
2 trust subject to taxation under this part.

3 (g) For purposes of this section, “enterprise zone” means an
4 area designated as an enterprise zone pursuant to Chapter 12.8
5 (commencing with Section 7070) of Division 7 of Title 1 of the
6 Government Code.

7 (h) The credit allowable under this section shall be reduced by
8 the credit allowed under Sections 23623.5, 23625, and 23646
9 claimed for the same employee. The credit shall also be reduced
10 by the federal credit allowed under Section 51 of the Internal
11 Revenue Code.

12 In addition, any deduction otherwise allowed under this part for
13 the wages or salaries paid or incurred by the taxpayer upon which
14 the credit is based shall be reduced by the amount of the credit,
15 prior to any reduction required by subdivision (i) or (j).

16 (i) In the case where the credit otherwise allowed under this
17 section exceeds the “tax” for the taxable year, that portion of the
18 credit that exceeds the “tax” may be carried over and added to the
19 credit, if any, in the succeeding five taxable years, if necessary,
20 until the credit is exhausted. The credit shall be applied first to the
21 earliest taxable years possible.

22 (j) (1) The amount of the credit otherwise allowed under this
23 section and Section 23612.2, including any credit carryover from
24 prior years, that may reduce the “tax” for the taxable year shall
25 not exceed the amount of tax which would be imposed on the
26 taxpayer’s business income attributable to the enterprise zone
27 determined as if that attributable income represented all of the
28 income of the taxpayer subject to tax under this part.

29 (2) Attributable income shall be that portion of the taxpayer’s
30 California source business income that is apportioned to the
31 enterprise zone. For that purpose, the taxpayer’s business
32 attributable to sources in this state first shall be determined in
33 accordance with Chapter 17 (commencing with Section 25101).
34 That business income shall be further apportioned to the enterprise
35 zone in accordance with Article 2 (commencing with Section
36 25120) of Chapter 17, modified for purposes of this section in
37 accordance with paragraph (3).

38 (3) Business income shall be apportioned to the enterprise zone
39 by multiplying the total California business income of the taxpayer
40 by a fraction, the numerator of which is the property factor plus

1 the payroll factor, and the denominator of which is two. For
2 purposes of this paragraph:

3 (A) The property factor is a fraction, the numerator of which is
4 the average value of the taxpayer's real and tangible personal
5 property owned or rented and used in the enterprise zone during
6 the income year, and the denominator of which is the average value
7 of all the taxpayer's real and tangible personal property owned or
8 rented and used in this state during the income year.

9 (B) The payroll factor is a fraction, the numerator of which is
10 the total amount paid by the taxpayer in the enterprise zone during
11 the income year for compensation, and the denominator of which
12 is the total compensation paid by the taxpayer in this state during
13 the income year.

14 (4) The portion of any credit remaining, if any, after application
15 of this subdivision, shall be carried over to succeeding taxable
16 years, if necessary, until the credit is exhausted, as if it were an
17 amount exceeding the "tax" for the taxable year, as provided in
18 subdivision (i). However, the portion of any credit remaining for
19 carryover to taxable years beginning on or after January 1, 2014,
20 if any, after application of this subdivision, shall be carried over
21 only to the succeeding five taxable years if necessary, until the
22 credit is exhausted, as if it were an amount exceeding the "tax"
23 for the taxable year, as provided in subdivision (i).

24 (k) The changes made to this section by the act adding this
25 subdivision shall apply to taxable years on or after January 1, 1997.

26 (l) (1) Except as provided in paragraph (2), this section shall
27 cease to be operative for taxable years beginning on or after January
28 1, 2014, and shall be repealed on December 1, 2019.

29 (2) The section shall continue to apply with respect to qualified
30 employees who are employed by the qualified taxpayer within the
31 enterprise zone within the 60-month period immediately preceding
32 January 1, 2014, and qualified wages paid or incurred with respect
33 to those qualified employees shall continue to qualify for the credit
34 under this section for taxable years beginning on or after January
35 1, 2014, in accordance with this section, as amended by the act
36 adding this subdivision.

37 ~~SEC. 29.~~

38 *SEC. 30.* Section 23622.8 of the Revenue and Taxation Code
39 is amended to read:

1 23622.8. (a) For each taxable year beginning on or after
2 January 1, 1998, there shall be allowed a credit against the “tax”
3 (as defined in Section 23036) to a qualified taxpayer for hiring a
4 qualified disadvantaged individual during the taxable year for
5 employment in the manufacturing enhancement area. The credit
6 shall be equal to the sum of each of the following:

7 (1) Fifty percent of the qualified wages in the first year of
8 employment.

9 (2) Forty percent of the qualified wages in the second year of
10 employment.

11 (3) Thirty percent of the qualified wages in the third year of
12 employment.

13 (4) Twenty percent of the qualified wages in the fourth year of
14 employment.

15 (5) Ten percent of the qualified wages in the fifth year of
16 employment.

17 (b) For purposes of this section:

18 (1) “Qualified wages” means:

19 (A) That portion of wages paid or incurred by the qualified
20 taxpayer during the taxable year to qualified disadvantaged
21 individuals that does not exceed 150 percent of the minimum wage.

22 (B) The total amount of qualified wages which may be taken
23 into account for purposes of claiming the credit allowed under this
24 section shall not exceed two million dollars (\$2,000,000) per
25 taxable year.

26 (C) Wages received during the 60-month period beginning with
27 the first day the qualified disadvantaged individual commences
28 employment with the qualified taxpayer. Reemployment in
29 connection with any increase, including a regularly occurring
30 seasonal increase, in the trade or business operations of the
31 qualified taxpayer does not constitute commencement of
32 employment for purposes of this section.

33 (D) Qualified wages do not include any wages paid or incurred
34 by the qualified taxpayer on or after the manufacturing
35 enhancement area expiration date. However, wages paid or incurred
36 with respect to qualified employees who are employed by the
37 qualified taxpayer within the manufacturing enhancement area
38 within the 60-month period prior to the manufacturing enhancement
39 area expiration date shall continue to qualify for the credit under
40 this section after the manufacturing enhancement area expiration

1 date, in accordance with all provisions of this section applied as
2 if the manufacturing enhancement area designation were still in
3 existence and binding.

4 (2) “Minimum wage” means the wage established by the
5 Industrial Welfare Commission as provided for in Chapter 1
6 (commencing with Section 1171) of Part 4 of Division 2 of the
7 Labor Code.

8 (3) “Manufacturing enhancement area” means an area designated
9 pursuant to Section 7073.8 of the Government Code according to
10 the procedures of Chapter 12.8 (commencing with Section 7070)
11 of Division 7 of Title 1 of the Government Code.

12 (4) “Manufacturing enhancement area expiration date” means
13 the date the manufacturing enhancement area designation expires,
14 is no longer binding, becomes inoperative, or is repealed.

15 (5) “Qualified disadvantaged individual” means an individual
16 who satisfies all of the following requirements:

17 (A) (i) At least 90 percent of whose services for the qualified
18 taxpayer during the taxable year are directly related to the conduct
19 of the qualified taxpayer’s trade or business located in a
20 manufacturing enhancement area.

21 (ii) Who performs at least 50 percent of his or her services for
22 the qualified taxpayer during the taxable year in the manufacturing
23 enhancement area.

24 (B) Who is hired by the qualified taxpayer after the designation
25 of the area as a manufacturing enhancement area in which the
26 individual’s services were primarily performed.

27 (C) Who is any of the following immediately preceding the
28 individual’s commencement of employment with the qualified
29 taxpayer:

30 (i) An individual who has been determined eligible for services
31 under the federal Job Training Partnership Act (29 U.S.C. Sec.
32 1501 et seq.) or its successor.

33 (ii) Any voluntary or mandatory registrant under the Greater
34 Avenues for Independence Act of 1985, or its successor, as
35 provided pursuant to Article 3.2 (commencing with Section 11320)
36 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
37 Code.

38 (iii) Any individual who has been certified eligible by the
39 Employment Development Department under the federal Targeted

1 Jobs Tax Credit Program, or its successor, whether or not this
2 program is in effect.

3 (6) “Qualified taxpayer” means any corporation engaged in a
4 trade or business within a manufacturing enhancement area
5 designated pursuant to Section 7073.8 of the Government Code
6 and that meets all of the following requirements:

7 (A) Is engaged in those lines of business described in Codes
8 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
9 inclusive, of the Standard Industrial Classification (SIC) Manual
10 published by the United States Office of Management and Budget,
11 1987 edition.

12 (B) At least 50 percent of the qualified taxpayer’s workforce
13 hired after the designation of the manufacturing enhancement area
14 is composed of individuals who, at the time of hire, are residents
15 of the county in which the manufacturing enhancement area is
16 located.

17 (C) Of this percentage of local hires, at least 30 percent shall
18 be qualified disadvantaged individuals.

19 (7) “Seasonal employment” means employment by a qualified
20 taxpayer that has regular and predictable substantial reductions in
21 trade or business operations.

22 (c) (1) For purposes of this section, all of the following apply:

23 (A) All employees of all corporations that are members of the
24 same controlled group of corporations shall be treated as employed
25 by a single qualified taxpayer.

26 (B) The credit (if any) allowable by this section with respect to
27 each member shall be determined by reference to its proportionate
28 share of the expenses of the qualified wages giving rise to the
29 credit and shall be allocated in that manner.

30 (C) Principles that apply in the case of controlled groups of
31 corporations, as specified in subdivision (d) of Section 23622.7,
32 shall apply with respect to determining employment.

33 (2) If a qualified taxpayer acquires the major portion of a trade
34 or business of another employer (hereinafter in this paragraph
35 referred to as the “predecessor”) or the major portion of a separate
36 unit of a trade or business of a predecessor, then, for purposes of
37 applying this section (other than subdivision (d)) for any calendar
38 year ending after that acquisition, the employment relationship
39 between a qualified disadvantaged individual and a qualified
40 taxpayer shall not be treated as terminated if the qualified

1 disadvantaged individual continues to be employed in that trade
2 or business.

3 (d) (1) (A) If the employment, other than seasonal employment,
4 of any qualified disadvantaged individual, with respect to whom
5 qualified wages are taken into account under subdivision (b) is
6 terminated by the qualified taxpayer at any time during the first
7 270 days of that employment (whether or not consecutive) or before
8 the close of the 270th calendar day after the day in which that
9 qualified disadvantaged individual completes 90 days of
10 employment with the qualified taxpayer, the tax imposed by this
11 part for the taxable year in which that employment is terminated
12 shall be increased by an amount equal to the credit allowed under
13 subdivision (a) for that taxable year and all prior taxable years
14 attributable to qualified wages paid or incurred with respect to that
15 qualified disadvantaged individual.

16 (B) If the seasonal employment of any qualified disadvantaged
17 individual, with respect to whom qualified wages are taken into
18 account under subdivision (a) is not continued by the qualified
19 taxpayer for a period of 270 days of employment during the
20 60-month period beginning with the day the qualified
21 disadvantaged individual commences seasonal employment with
22 the qualified taxpayer, the tax imposed by this part, for the income
23 year that includes the 60th month following the month in which
24 the qualified disadvantaged individual commences seasonal
25 employment with the qualified taxpayer, shall be increased by an
26 amount equal to the credit allowed under subdivision (a) for that
27 taxable year and all prior taxable years attributable to qualified
28 wages paid or incurred with respect to that qualified disadvantaged
29 individual.

30 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
31 any of the following:

32 (i) A termination of employment of a qualified disadvantaged
33 individual who voluntarily leaves the employment of the qualified
34 taxpayer.

35 (ii) A termination of employment of a qualified disadvantaged
36 individual who, before the close of the period referred to in
37 subparagraph (A) of paragraph (1), becomes disabled to perform
38 the services of that employment, unless that disability is removed
39 before the close of that period and the qualified taxpayer fails to
40 offer reemployment to that individual.

1 (iii) A termination of employment of a qualified disadvantaged
2 individual, if it is determined that the termination was due to the
3 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,
4 of Title 22 of the California Code of Regulations) of that individual.

5 (iv) A termination of employment of a qualified disadvantaged
6 individual due to a substantial reduction in the trade or business
7 operations of the qualified taxpayer.

8 (v) A termination of employment of a qualified disadvantaged
9 individual, if that individual is replaced by other qualified
10 disadvantaged individuals so as to create a net increase in both the
11 number of employees and the hours of employment.

12 (B) Subparagraph (B) of paragraph (1) shall not apply to any
13 of the following:

14 (i) A failure to continue the seasonal employment of a qualified
15 disadvantaged individual who voluntarily fails to return to the
16 seasonal employment of the qualified taxpayer.

17 (ii) A failure to continue the seasonal employment of a qualified
18 disadvantaged individual who, before the close of the period
19 referred to in subparagraph (B) of paragraph (1), becomes disabled
20 and unable to perform the services of that seasonal employment,
21 unless that disability is removed before the close of that period
22 and the qualified taxpayer fails to offer seasonal employment to
23 that qualified disadvantaged individual.

24 (iii) A failure to continue the seasonal employment of a qualified
25 disadvantaged individual, if it is determined that the failure to
26 continue the seasonal employment was due to the misconduct (as
27 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
28 the California Code of Regulations) of that qualified disadvantaged
29 individual.

30 (iv) A failure to continue seasonal employment of a qualified
31 disadvantaged individual due to a substantial reduction in the
32 regular seasonal trade or business operations of the qualified
33 taxpayer.

34 (v) A failure to continue the seasonal employment of a qualified
35 disadvantaged individual, if that qualified disadvantaged individual
36 is replaced by other qualified disadvantaged individuals so as to
37 create a net increase in both the number of seasonal employees
38 and the hours of seasonal employment.

39 (C) For purposes of paragraph (1), the employment relationship
40 between the qualified taxpayer and a qualified disadvantaged

1 individual shall not be treated as terminated by either of the
2 following:

3 (i) By a transaction to which Section 381(a) of the Internal
4 Revenue Code applies, if the qualified disadvantaged individual
5 continues to be employed by the acquiring corporation.

6 (ii) By reason of a mere change in the form of conducting the
7 trade or business of the qualified taxpayer, if the qualified
8 disadvantaged individual continues to be employed in that trade
9 or business and the qualified taxpayer retains a substantial interest
10 in that trade or business.

11 (3) Any increase in tax under paragraph (1) shall not be treated
12 as tax imposed by this part for purposes of determining the amount
13 of any credit allowable under this part.

14 (e) The credit shall be reduced by the credit allowed under
15 Section 23621. The credit shall also be reduced by the federal
16 credit allowed under Section 51 of the Internal Revenue Code.

17 In addition, any deduction otherwise allowed under this part for
18 the wages or salaries paid or incurred by the qualified taxpayer
19 upon which the credit is based shall be reduced by the amount of
20 the credit, prior to any reduction required by subdivision (f) or (g).

21 (f) In the case where the credit otherwise allowed under this
22 section exceeds the “tax” for the taxable year, that portion of the
23 credit that exceeds the “tax” may be carried over and added to the
24 credit, if any, in the succeeding five taxable years, if necessary,
25 until the credit is exhausted. The credit shall be applied first to the
26 earliest taxable years possible.

27 (g) (1) The amount of credit otherwise allowed under this
28 section, including prior year credit carryovers, that may reduce
29 the “tax” for the taxable year shall not exceed the amount of tax
30 that would be imposed on the qualified taxpayer’s business income
31 attributed to a manufacturing enhancement area determined as if
32 that attributed income represented all of the net income of the
33 qualified taxpayer subject to tax under this part.

34 (2) Attributable income is that portion of the taxpayer’s
35 California source business income that is apportioned to the
36 manufacturing enhancement area. For that purpose, the taxpayer’s
37 business income attributable to sources in this state first shall be
38 determined in accordance with Chapter 17 (commencing with
39 Section 25101). That business income shall be further apportioned
40 to the manufacturing enhancement area in accordance with Article

1 2 (commencing with Section 25120) of Chapter 17, modified for
2 purposes of this section in accordance with paragraph (3).

3 (3) Income shall be apportioned to a manufacturing enhancement
4 area by multiplying the total California business income of the
5 taxpayer by a fraction, the numerator of which is the property
6 factor plus the payroll factor, and the denominator of which is two.
7 For the purposes of this paragraph:

8 (A) The property factor is a fraction, the numerator of which is
9 the average value of the taxpayer's real and tangible personal
10 property owned or rented and used in the manufacturing
11 enhancement area during the taxable year, and the denominator
12 of which is the average value of all the taxpayer's real and tangible
13 personal property owned or rented and used in this state during
14 the taxable year.

15 (B) The payroll factor is a fraction, the numerator of which is
16 the total amount paid by the taxpayer in the manufacturing
17 enhancement area during the taxable year for compensation, and
18 the denominator of which is the total compensation paid by the
19 taxpayer in this state during the taxable year.

20 (4) The portion of any credit remaining, if any, after application
21 of this subdivision, shall be carried over to succeeding taxable
22 years, if necessary, until the credit is exhausted, as if it were an
23 amount exceeding the "tax" for the taxable year, as provided in
24 subdivision (g). However, the portion of any credit remaining for
25 carryover to taxable years beginning on or after January 1, 2014,
26 if any, after application of this subdivision, shall be carried over
27 only to the succeeding five taxable years if necessary, until the
28 credit is exhausted, as if it were an amount exceeding the "tax"
29 for the taxable year, as provided in subdivision (g).

30 (h) If the taxpayer is allowed a credit pursuant to this section
31 for qualified wages paid or incurred, only one credit shall be
32 allowed to the taxpayer under this part with respect to any wage
33 consisting in whole or in part of those qualified wages.

34 (i) The qualified taxpayer shall do both of the following:

35 (1) Obtain from the Employment Development Department, as
36 permitted by federal law, the local county or city Job Training
37 Partnership Act administrative entity, the local county GAIN office
38 or social services agency, or the local government administering
39 the manufacturing enhancement area, a certification that provides
40 that a qualified disadvantaged individual meets the eligibility

1 requirements specified in paragraph (5) of subdivision (b). The
 2 Employment Development Department may provide preliminary
 3 screening and referral to a certifying agency. The Department of
 4 Housing and Community Development shall develop regulations
 5 governing the issuance of certificates pursuant to subdivision (d)
 6 of Section 7086 of the Government Code and shall develop forms
 7 for this purpose.

8 (2) Retain a copy of the certification and provide it upon request
 9 to the Franchise Tax Board.

10 (j) (1) Except as provided in paragraph (2), this section shall
 11 cease to be operative for taxable years beginning on or after January
 12 1, 2014, and shall be repealed on December 1, 2019.

13 (2) The section shall continue to apply with respect to qualified
 14 employees who are employed by the qualified taxpayer within the
 15 manufacturing enhancement area within the 60-month period
 16 immediately preceding January 1, 2014, and qualified wages paid
 17 or incurred with respect to those qualified employees shall continue
 18 to qualify for the credit under this section for taxable years
 19 beginning on or after January 1, 2014, in accordance with this
 20 section, as amended by the act adding this subdivision.

21 ~~SEC. 30.~~

22 *SEC. 31.* Section 23623 of the Revenue and Taxation Code,
 23 as added by Section 8 of Chapter 10 of the ~~3rd~~ *Third* Extraordinary
 24 Session of the Statutes of 2009, is repealed.

25 ~~SEC. 31.~~

26 *SEC. 32.* Section 23623 of the Revenue and Taxation Code,
 27 as added by Section 8 of Chapter 17 of the ~~3rd~~ *Third* Extraordinary
 28 Session of the Statutes of 2009, is amended to read:

29 23623. (a) For each taxable year beginning on or after January
 30 1, 2009, there shall be allowed as a credit against the “tax,” as
 31 defined in Section 23036, three thousand dollars (\$3,000) for each
 32 net increase in qualified full-time employees, as specified in
 33 subdivision (c), hired during the taxable year by a qualified
 34 employer.

35 (b) For purposes of this section:

36 (1) “Acquired” includes any gift, inheritance, transfer incident
 37 to divorce, or any other transfer, whether or not for consideration.

38 (2) “Qualified full-time employee” means:

1 (A) A qualified employee who was paid qualified wages during
2 the taxable year by the qualified employer for services of not less
3 than an average of 35 hours per week.

4 (B) A qualified employee who was a salaried employee and
5 was paid compensation during the taxable year for full-time
6 employment, within the meaning of Section 515 of the Labor Code,
7 by the qualified employer.

8 (3) A “qualified employee” shall not include any of the
9 following:

10 (A) An employee certified as a qualified employee in an
11 enterprise zone designated in accordance with Chapter 12.8
12 (commencing with Section 7070) of Division 7 of Title 1 of the
13 Government Code.

14 (B) An employee certified as a qualified disadvantaged
15 individual in a manufacturing enhancement area designated in
16 accordance with Section 7073.8 of the Government Code.

17 (C) An employee certified as a qualified employee in a targeted
18 tax area designated in accordance with Section 7097 of the
19 Government Code.

20 (D) An employee certified as a qualified disadvantaged
21 individual or a qualified displaced employee in a local agency
22 military base recovery area (LAMBRA) designated in accordance
23 with Chapter 12.97 (commencing with Section 7105) of Division
24 7 of Title 1 of the Government Code.

25 (E) An employee whose wages are included in calculating any
26 other credit allowed under this part.

27 (4) “Qualified employer” means a taxpayer that, as of the last
28 day of the preceding taxable year, employed a total of 20 or fewer
29 employees.

30 (5) “Qualified wages” means wages subject to Division 6
31 (commencing with Section 13000) of the Unemployment Insurance
32 Code.

33 (6) “Annual full-time equivalent” means either of the following:

34 (A) In the case of a full-time employee paid hourly qualified
35 wages, “annual full-time equivalent” means the total number of
36 hours worked for the taxpayer by the employee (not to exceed
37 2,000 hours per employee) divided by 2,000.

38 (B) In the case of a salaried full-time employee, “annual
39 full-time equivalent” means the total number of weeks worked for
40 the taxpayer by the employee divided by 52.

1 (c) The net increase in qualified full-time employees of a
2 qualified employer shall be determined as provided by this
3 subdivision:

4 (1) (A) The net increase in qualified full-time employees shall
5 be determined on an annual full-time equivalent basis by
6 subtracting from the amount determined in subparagraph (C) the
7 amount determined in subparagraph (B).

8 (B) The total number of qualified full-time employees employed
9 in the preceding taxable year by the taxpayer and by any trade or
10 business acquired by the taxpayer during the current taxable year.

11 (C) The total number of full-time employees employed in the
12 current taxable year by the taxpayer and by any trade or business
13 acquired during the current taxable year.

14 (2) For taxpayers who first commence doing business in this
15 state during the taxable year, the number of full-time employees
16 for the immediately preceding prior taxable year shall be zero.

17 (d) In the case where the credit allowed by this section exceeds
18 the “tax,” the excess may be carried over to reduce the “tax” in
19 the following year, and succeeding seven years if necessary, until
20 the credit is exhausted.

21 (e) Any deduction otherwise allowed under this part for qualified
22 wages shall not be reduced by the amount of the credit allowed
23 under this section.

24 (f) For purposes of this section:

25 (1) All employees of the trades or businesses that are treated as
26 related under either Section 267, 318, or 707 of the Internal
27 Revenue Code shall be treated as employed by a single taxpayer.

28 (2) In determining whether the taxpayer has first commenced
29 doing business in this state during the taxable year, the provisions
30 of subdivision (f) of Section 17276, without application of
31 paragraph (7) of that subdivision, shall apply.

32 (g) (1) (A) Credit under this section and Section 17053.80 shall
33 be allowed only for credits claimed on timely filed original returns
34 received by the Franchise Tax Board on or before the cut-off date
35 established by the Franchise Tax Board.

36 (B) For purposes of this paragraph, the cut-off date shall be the
37 last day of the calendar quarter within which the Franchise Tax
38 Board estimates it will have received timely filed original returns
39 claiming credits under this section and Section 17053.80 that

1 cumulatively total four hundred million dollars (\$400,000,000)
2 for all taxable years.

3 (2) The date a return is received shall be determined by the
4 Franchise Tax Board.

5 (3) (A) The determinations of the Franchise Tax Board with
6 respect to the cut-off date, the date a return is received, and whether
7 a return has been timely filed for purposes of this subdivision may
8 not be reviewed in any administrative or judicial proceeding.

9 (B) Any disallowance of a credit claimed due to a determination
10 under this subdivision, including the application of the limitation
11 specified in paragraph (1), shall be treated as a mathematical error
12 appearing on the return. Any amount of tax resulting from such
13 disallowance may be assessed by the Franchise Tax Board in the
14 same manner as provided by Section 19051.

15 (4) The Franchise Tax Board shall periodically provide notice
16 on its Web site with respect to the amount of credit under this
17 section and Section 17053.80 claimed on timely filed original
18 returns received by the Franchise Tax Board.

19 (h) (1) The Franchise Tax Board may prescribe rules, guidelines
20 or procedures necessary or appropriate to carry out the purposes
21 of this section, including any guidelines regarding the limitation
22 on total credits allowable under this section and Section 17053.80
23 and guidelines necessary to avoid the application of paragraph (2)
24 of subdivision (f) through split-ups, shell corporations, partnerships,
25 tiered ownership structures, or otherwise.

26 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
27 Division 3 of Title 2 of the Government Code does not apply to
28 any standard, criterion, procedure, determination, rule, notice, or
29 guideline established or issued by the Franchise Tax Board
30 pursuant to this section.

31 (i) This section shall cease to be operative for taxable years
32 beginning on or after January 1, 2014, and shall be repealed on
33 December 1, 2014.

34 ~~SEC. 32.~~

35 *SEC. 33.* Section 23626 is added to the Revenue and Taxation
36 Code, to read:

37 23626. (a) (1) For each taxable year beginning on or after
38 January 1, 2014, and before January 1, 2019, there shall be allowed
39 to a qualified taxpayer that hires a qualified full-time employee
40 and pays or incurs qualified wages attributable to work performed

1 by the qualified full-time employee in a designated census tract
 2 or former enterprise zone, and that receives a tentative credit
 3 reservation for that qualified full-time employee, a credit against
 4 the “tax,” as defined by Section 23036, in an amount calculated
 5 under this section.

6 (2) The amount of the credit allowable under this section for a
 7 taxable year shall be equal to the product of the tentative credit
 8 amount for the taxable year and the applicable percentage for the
 9 taxable year.

10 (3) (A) If a qualified taxpayer relocates to a designated census
 11 tract or former enterprise zone, the qualified taxpayer shall be
 12 allowed a credit with respect to qualified wages for each qualified
 13 full-time employee who is employed within the new location only
 14 if the qualified taxpayer provides each employee at the previous
 15 location or locations a written offer of employment at the new
 16 location in the designated census tract or former enterprise zone
 17 with comparable compensation.

18 (B) For purposes of this paragraph, “relocates to a designated
 19 census tract or former enterprise zone ” means an increase in the
 20 number of qualified full-time employees, employed by a qualified
 21 taxpayer, within a designated census tract or tracts or former
 22 enterprise-zone zones within a 12-month period in which there is
 23 a decrease in the number of full-time employees, employed by the
 24 qualified taxpayer in this state, but outside of designated census
 25 tracts or former enterprise zone.

26 (C) *This paragraph shall not apply to a small business.*

27 (4) The credit allowed by this section may only be claimed on
 28 a timely filed original return of the qualified taxpayer and only
 29 with respect to a qualified full-time employee for whom the
 30 qualified taxpayer has received a tentative credit reservation.

31 ~~(C) This paragraph shall not apply to a small business.~~

32 (b) For purposes of this section:

33 (1) The “tentative credit amount” for a taxable year shall be
 34 equal to the product of the applicable credit percentage for each
 35 qualified full-time employee and the qualified wages paid by the
 36 qualified taxpayer during the taxable year to that qualified full-time
 37 employee.

38 (2) The “applicable percentage” for a taxable year shall be equal
 39 to a fraction, the numerator of which is the net increase in the total
 40 number of full-time employees employed in this state during the

1 taxable year, determined on an annual full-time equivalent basis,
2 as compared with the total number of full-time employees
3 employed in this state during the base year, determined on the
4 same basis, and the denominator of which shall be the total number
5 of qualified full-time employees employed in this state during the
6 taxable year. The applicable percentage shall not exceed 100
7 percent.

8 (3) The “applicable credit percentage” means the credit
9 percentage for the calendar year during which a qualified full-time
10 employee was first employed by the qualified taxpayer. The
11 applicable credit percentage for all calendar years shall be 35
12 percent.

13 (4) “Base year” means the 2013 taxable year, or in the case of
14 a qualified taxpayer who first hires a qualified full-time employee
15 in a taxable year beginning on or after January 2015, the taxable
16 year immediately preceding the taxable year in which the qualified
17 full-time employee was hired.

18 (5) “Acquired” includes any gift, inheritance, transfer incident
19 to divorce, or any other transfer, whether or not for consideration.

20 (6) “Annual full-time equivalent” means either of the following:

21 (A) In the case of a full-time employee paid hourly qualified
22 wages, “annual full-time equivalent” means the total number of
23 hours worked for the qualified taxpayer by the employee (not to
24 exceed 2,000 hours per employee) divided by 2,000.

25 (B) In the case of a salaried full-time employee, “annual
26 full-time equivalent” means the total number of weeks worked for
27 the qualified taxpayer by the employee divided by 52.

28 (7) “Designated census tract” means a census tract within the
29 state that is determined by the Department of Finance to have a
30 civilian unemployment rate that is within the top 25 percent of all
31 census tracts within the state and has a poverty rate within the top
32 25 percent of all census tracts within the state, as prescribed in
33 Section 13073.5 of the Government Code.

34 (8) “Former enterprise zone” means an enterprise zone
35 designated *as of December 31, 2011, and any expansion of an*
36 *enterprise zone prior to December 31, 2012, under former Chapter*
37 *12.8 (commencing with former ~~section 7070~~ Section 7070) of*
38 *Division 7 of Title 1 of the Government Code*; Code, as in effect
39 on December 31, ~~2011~~, 2012, excluding any census tract within
40 an enterprise zone that is identified by the Department of Finance

1 pursuant to Section 13073.5 of the Government Code as a census
 2 tract within the lowest quartile of census tracts with the lowest
 3 civilian unemployment *and poverty*.

4 (9) “Minimum wage” means the wage established pursuant to
 5 Chapter 1 (commencing with Section 1171) of Part 4 of Division
 6 2 of the Labor Code.

7 (10) (A) “Qualified full-time employee” means an individual
 8 who meets all of the following requirements:

9 (i) Performs at least 50 percent of his or her services for the
 10 qualified taxpayer during the taxable year in a designated census
 11 tract *or former enterprise zone*.

12 (ii) Receives starting wages that are at least 150 percent of the
 13 minimum wage.

14 (iii) Is hired by the qualified taxpayer on or after January 1,
 15 2014.

16 (iv) Is hired by the qualified taxpayer after the date the
 17 Department of Finance determines that the census tract ~~or enterprise~~
 18 ~~zone~~ referred to in clause (i) is a designated census tract or *that*
 19 *the census tracts within a former enterprise zone are not census*
 20 *tracts with the lowest civilian unemployment and poverty*.

21 (v) Satisfies either of the following conditions:

22 (I) Is paid qualified wages by the qualified taxpayer for services
 23 not less than an average of 35 hours per week.

24 (II) Is a salaried employee and was paid compensation during
 25 the taxable year for full-time employment, within the meaning of
 26 Section 515 of the Labor Code, by the qualified taxpayer.

27 (vii) Upon commencement of employment with the qualified
 28 taxpayer, satisfies any of the following conditions:

29 (I) Was unemployed for the six months immediately preceding
 30 employment with the qualified taxpayer. In the case of an
 31 individual who completed a program of study at a college,
 32 university, or other postsecondary educational institution, received
 33 a baccalaureate, postgraduate, or professional degree, and was
 34 unemployed for the six months immediately preceding employment
 35 with the qualified taxpayer, that individual must have completed
 36 that program of study at least 12 months prior to the individual’s
 37 commencement of employment with the qualified taxpayer.

38 (II) Is a veteran that had not been employed since separation
 39 from service in the Armed Forces of the United States.

1 (III) Was a recipient of the credit allowed under Section 32 of
2 the Internal Revenue Code, relating to earned income, as applicable
3 for federal purposes, for the previous taxable year.

4 (B) An individual may only be considered a qualified full-time
5 employee for the period of time commencing with the date the
6 individual is first employed by the qualified taxpayer and ending
7 60 months thereafter.

8 (11) (A) “Qualified taxpayer” means a corporation engaged in
9 a trade or business within designated census tract or former
10 enterprise zone that, during the taxable year, pays or incurs
11 qualified wages.

12 ~~(B) “Qualified small business taxpayer” means a qualified~~
13 ~~taxpayer that is a small business.~~

14 ~~(C)~~

15 (B) In the case of any pass-thru entity, the determination of
16 whether a taxpayer is a qualified taxpayer ~~or a qualified small~~
17 ~~business taxpayer~~ under this section shall be made at the entity
18 level and any credit under this section or Section 17053.73 shall
19 be allowed to the pass-thru entity and passed through to the partners
20 and shareholders in accordance with applicable provisions of this
21 part or Part 10 (commencing with Section 17001). For purposes
22 of this subdivision, the term “pass-thru entity” means any
23 partnership or “S” corporation.

24 ~~(D)~~

25 (C) “Qualified taxpayer” shall not include any of the following:

26 (i) Employers that provide temporary help services, as described
27 in Code 561320 of the North American Industry Classification
28 System (NAICS) published by the United States Office of
29 Management and Budget, 2012 edition.

30 (ii) Employers that provide retail trade services, as described
31 in Sector 44-45 of the North American Industry Classification
32 System (NAICS) published by the United States Office of
33 Management and Budget, 2012 edition.

34 (iii) Employers that are primarily engaged in providing food
35 services, as described in Code 711110, 722511, 722513, 722514,
36 or 722515 of the North American Industry Classification System
37 (NAICS) published by the United States Office of Management
38 and Budget, 2012 edition.

39 (iv) Employers that are primarily engaged in services as
40 described in Code 713210, 721120, or 722410 of the North

1 American Industry Classification System (NAICS) published by
 2 the United States Office of Management and Budget, 2012 edition.

3 ~~(E)~~

4 (D) Subparagraph~~(D)~~ (C) shall not apply to a taxpayer that is
 5 a “small business.”

6 (12) “Qualified wages” means those wages that meet all of the
 7 following requirements:

8 (A) That portion of wages paid or incurred by the qualified
 9 taxpayer during the taxable year to each qualified full-time
 10 employee that exceeds 150 percent of minimum wage, but does
 11 not exceed 350 percent of the minimum wage.

12 (B) Wages paid or incurred during the 60-month period
 13 beginning with the first day the qualified full-time employee
 14 commences employment with the qualified taxpayer. In the case
 15 of any employee who is reemployed, including regularly occurring
 16 seasonal increase, in the trade or business operations of the
 17 qualified taxpayer, this reemployment shall not be treated as
 18 constituting commencement of employment for purposes of this
 19 section.

20 (C) Except as provided in paragraph (3) of subdivision~~(j)~~; (m),
 21 qualified wages shall not include any wages paid or incurred by
 22 the qualified taxpayer on or after the date that the Department of
 23 Finance’s redesignation of designated census tracts is effective,
 24 as provided in paragraph (2) of subdivision~~(e)~~; (g), so that a census
 25 tract is no longer determined to be a designated census tract.

26 (13) “Seasonal employment” means employment by a qualified
 27 taxpayer that has regular and predictable substantial reductions in
 28 trade or business operations.

29 (14) (A) “Small business” means a trade or business that has
 30 aggregate gross receipts, less returns and allowances reportable to
 31 this state, of less than two million dollars (\$2,000,000) during the
 32 previous taxable year.

33 (B) (i) For purposes of this paragraph, “gross receipts, less
 34 returns and allowances reportable to this state,” means the sum of
 35 the gross receipts from the production of business income, as
 36 defined in subdivision (a) of Section 25120, and the gross receipts
 37 from the production of nonbusiness income, as defined in
 38 subdivision (d) of Section 25120.

39 (ii) In the case of any trade or business activity conducted by a
 40 partnership or an “S” corporation, the limitations set forth in

1 subparagraph (A) shall be applied to the partnership or “S”
2 corporation ~~at the entity level, and to each partner or shareholder.~~

3 (iii) *For taxpayers that are required to be included in a*
4 *combined report under Section 25101 or authorized to be included*
5 *in a combined report under Section 25101.15, the dollar amount*
6 *specified in subparagraph (A) shall apply to the aggregate gross*
7 *receipts of all taxpayers that are required to be or authorized to*
8 *be included in a combined report.*

9 (15) An individual is “unemployed” for any period for which
10 the individual is all of the following:

11 (A) Not in receipt of wages subject to withholding under Section
12 13020 of the Unemployment Insurance Code for that period.

13 (B) Not a self-employed individual (within the meaning of
14 Section 401(c)(1)(B) of the Internal Revenue Code, relating to
15 self-employed individual) for that period.

16 (C) Not a registered full-time student at a high school, college,
17 university, or other postsecondary educational institution for that
18 period.

19 (c) The net increase in full-time employees of a qualified
20 taxpayer shall be determined as provided by this subdivision:

21 (1) (A) The net increase in full-time employees shall be
22 determined on an annual full-time equivalent basis by subtracting
23 from the amount determined in subparagraph (C) the amount
24 determined in subparagraph (B).

25 (B) The total number of full-time employees employed in the
26 base year by the taxpayer and by any trade or business acquired
27 by the taxpayer during the current taxable year.

28 (C) The total number of full-time employees employed in the
29 current taxable year by the taxpayer and by any trade or business
30 acquired during the current taxable year.

31 (2) For taxpayers who first commence doing business in this
32 state during the taxable year, the number of full-time employees
33 for the base year shall be zero.

34 (d) For purposes of this section:

35 (1) All employees of the trades or businesses that are treated as
36 related under Section 267, 318, or 707 of the Internal Revenue
37 Code shall be treated as employed by a single taxpayer.

38 (2) In determining whether the taxpayer has first commenced
39 doing business in this state during the taxable year, the provisions

1 of subdivision (g) of Section 24416.20, without application of
2 paragraph (7) of that subdivision, shall apply.

3 (e) (1) To be eligible for the credit allowed by this section, a
4 qualified taxpayer shall, upon hiring a qualified full-time employee,
5 request a tentative credit reservation from the Franchise Tax Board
6 within 30 days of complying with the ~~Employment-development~~
7 *Development* Department's new hire reporting requirement as
8 provided in Section 1088.5 of the ~~Unemployment Insurance code.~~
9 *Code, in the form and manner prescribed by the Franchise Tax*
10 *Board.*

11 (2) To obtain a tentative credit reservation with respect to a
12 qualified full-time employee, the qualified taxpayer shall provide
13 necessary information, as determined by the Franchise Tax Board,
14 including the name, the social security number, the start date of
15 employment, the rate of pay of the qualified full-time employee,
16 ~~and the qualified taxpayer's gross receipts, less returns and~~
17 ~~allowances in this state, allowances,~~ for the previous taxable year,
18 *and whether the qualified full-time employee is a resident of a*
19 *targeted employment area, as defined in former Section 7072 of*
20 *the Government Code, as in effect on December 31, 2013.*

21 (3) The qualified taxpayer shall provide the Franchise Tax Board
22 an annual certification of employment with respect to each
23 qualified full-time employee hire in a previous taxable year, on or
24 before the 15th day of the third month of the taxable year. The
25 certification shall include necessary information, as determined
26 by the Franchise Tax Board, including the name, social security
27 number, start date of employment, and rate of pay for each qualified
28 full-time employee employed by the qualified taxpayer.

29 (4) A tentative credit reservation provided to a taxpayer with
30 respect to an employee of that taxpayer shall not constitute a
31 determination by the Franchise Tax Board with respect to any of
32 the requirements of this section regarding a taxpayer's eligibility
33 for the credit authorized by this section.

34 (f) The Franchise Tax Board shall do all of the following:

35 (1) Approve a tentative credit reservation with respect to a
36 qualified full-time employee hired during a ~~calendar year and~~
37 ~~advise the qualified taxpayer of the applicable credit percentage~~
38 ~~and the small business applicable credit percentage that may apply~~
39 ~~with respect to that qualified full-time employee. year.~~

1 ~~(2) Determine and publish on its Internet Web site, on or before~~
2 ~~September 1 of each calendar year, the applicable credit percentage~~
3 ~~and small business applicable credit percentage for the following~~
4 ~~calendar year.~~

5 ~~(3) Estimate the tentative credit wage base amount and the small~~
6 ~~business tentative credit wage base amount for a calendar year~~
7 ~~based on the starting wage or salary and full-time employment for~~
8 ~~an entire calendar year.~~

9 ~~(4)~~

10 (2) Determine the aggregate tentative reservation amount and
11 the aggregate small business tentative reservation amount for a
12 calendar year.

13 (3) *A tentative credit reservation request from a qualified*
14 *taxpayer with respect to a qualified full-time employee who is a*
15 *resident of a targeted employment area, as defined in former*
16 *Section 7072 of the Government Code, as in effect on December*
17 *31, 2013, shall be expeditiously processed by the Franchise Tax*
18 *Board. The residence of a qualified full-time employee in a targeted*
19 *employment area shall have no other effect on the eligibility of an*
20 *individual as a qualified full-time employee or the eligibility of a*
21 *qualified taxpayer for the credit authorized by this section.*

22 ~~(5)~~

23 (4) Notwithstanding ~~section~~ *Section 19542*, provide as a
24 searchable database on its Internet Web site, for each taxable year
25 beginning on or after January 1, 2014, and before January 1, 2019,
26 the employer names, amounts of tax credit claimed, and number
27 of new jobs created for each taxable year pursuant to this section
28 and ~~section~~ *Section 17053.73*.

29 (g) (1) The Department of Finance shall, by January 1, 2014,
30 and by January 1 of every fifth year thereafter, provide the
31 Franchise Tax Board with a list of the designated census tracts and
32 a list of census tracts with the lowest civilian unemployment rate.

33 (2) The redesignation of designated census tracts and lowest
34 civilian unemployment census tracts by the Department of Finance
35 as provided in Section 13073.5 of the Government Code shall be
36 effective, for purposes of this credit, one year after the date that
37 the Department of Finance redesignates the designated census
38 tracts.

39 (h) (1) For purposes of this section:

1 (A) All employees of the trades or businesses that are treated
2 as related under Section 267, 318, or 707 of the Internal Revenue
3 Code shall be treated as employed by a single qualified taxpayer.

4 (B) All employees of all corporations that are members of the
5 same controlled group of corporations shall be treated as employed
6 by a single qualified taxpayer.

7 (C) The credit, if any, allowable by this section to each member
8 shall be determined by reference to its proportionate share of the
9 expense of the qualified wages giving rise to the credit, and shall
10 be allocated in that manner.

11 (D) If a qualified taxpayer acquires the major portion of a trade
12 or business of another taxpayer, hereinafter in this paragraph
13 referred to as the predecessor, or the major portion of a separate
14 unit of a trade or business of a predecessor, then, for purposes of
15 applying this section for any taxable year ending after that
16 acquisition, the employment relationship between a qualified
17 full-time employee and a qualified taxpayer shall not be treated
18 as terminated if the employee continues to be employed in that
19 trade or business.

20 (2) For purposes of this subdivision, “controlled group of
21 corporations” means a controlled group of corporations as defined
22 in Section 1563(a) of the Internal Revenue Code, except that:

23 (A) “More than 50 percent” shall be substituted for “at least 80
24 percent” each place it appears in Section 1563(a)(1) of the Internal
25 Revenue Code.

26 (B) The determination shall be made without regard to
27 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
28 Revenue Code.

29 (3) Rules similar to the rules provided in Sections 46(e) and
30 46(h) of the Internal Revenue Code, as in effect on November 4,
31 1990, shall apply to both of the following:

32 (A) An organization to which Section 593 of the Internal
33 Revenue Code applies.

34 (B) A regulated investment company or a real estate investment
35 trust subject to taxation under this part.

36 (i) (1) If the employment of any qualified full-time employee,
37 with respect to whom qualified wages are taken into account under
38 subdivision (a), is terminated by the qualified taxpayer at any time
39 during the first 36 months after commencing employment with
40 the qualified taxpayer, whether or not consecutive, the tax imposed

1 by this part for the taxable year in which that employment is
2 terminated shall be increased by an amount equal to the credit
3 allowed under subdivision (a) for that taxable year and all prior
4 taxable years attributable to qualified wages paid or incurred with
5 respect to that employee.

6 (2) Paragraph (1) shall not apply to any of the following:

7 (A) A termination of employment of a qualified full-time
8 employee who voluntarily leaves the employment of the qualified
9 taxpayer.

10 (B) A termination of employment of a qualified full-time
11 employee who, before the close of the period referred to in
12 paragraph (1), becomes disabled and unable to perform the services
13 of that employment, unless that disability is removed before the
14 close of that period and the qualified taxpayer fails to offer
15 reemployment to that employee.

16 (C) A termination of employment of a qualified full-time
17 employee, if it is determined that the termination was due to the
18 misconduct, as defined in Sections 1256-30 to 1256-43, inclusive,
19 of Title 22 of the California Code of Regulations, of that employee.

20 (D) A termination of employment of a qualified full-time
21 employee due to a substantial reduction in the trade or business
22 operations of the qualified taxpayer, *including reductions due to*
23 *seasonal employment.*

24 (E) A termination of employment of a qualified full-time
25 employee, if that employee is replaced by other qualified full-time
26 employees so as to create a net increase in both the number of
27 employees and the hours of employment.

28 (F) A termination of employment of a qualified full-time
29 employee, when that employment is considered seasonal
30 employment and the qualified employee is rehired on a seasonal
31 basis.

32 (3) For purposes of paragraph (1), the employment relationship
33 between the qualified taxpayer and a qualified full-time employee
34 shall not be treated as terminated by reason of a mere change in
35 the form of conducting the trade or business of the qualified
36 taxpayer, if the qualified full-time employee continues to be
37 employed in that trade or business and the qualified taxpayer retains
38 a substantial interest in that trade or business.

1 (4) Any increase in tax under paragraph (1) shall not be treated
2 as tax imposed by this part for purposes of determining the amount
3 of any credit allowable under this part.

4 (j) In the case where the credit allowed by this section exceeds
5 the “tax,” the excess may be carried over to reduce the “tax” in
6 the following year, and the succeeding four years if necessary,
7 until exhausted.

8 (k) The Franchise Tax Board may prescribe rules, guidelines,
9 or procedures necessary or appropriate to carry out the purposes
10 of this section, including any guidelines regarding the allocation
11 of the credit allowed under this section. Chapter 3.5 (commencing
12 with Section 11340) of Part 1 of Division 3 of Title 2 of the
13 Government Code shall not apply to any rule, guideline, or
14 procedure prescribed by the Franchise Tax Board pursuant to this
15 section.

16 (l) (1) *Upon the effective date of this section, the Department*
17 *of Finance shall estimate the total dollar amount of credits that*
18 *will be claimed under this section with respect to each fiscal year*
19 *from the 2013–14 fiscal year to the 2018–19 fiscal year, inclusive.*

20 (2) *The Franchise Tax Board shall annually provide to the Joint*
21 *Legislative Budget Committee, by no later than March 1, a report*
22 *of the total dollar amount of the credits claimed under this section*
23 *with respect to the relevant fiscal year. The report shall compare*
24 *the total dollar amount of credits claimed under this section with*
25 *respect to that fiscal year with the department’s estimate with*
26 *respect to that same fiscal year. If the total dollar amount of credits*
27 *claimed for the fiscal year is less than the estimate for that fiscal*
28 *year, the report shall identify options for increasing annual claims*
29 *of the credit so as to meet estimated amounts.*

30 (⊕)

31 (m) (1) This section shall remain in effect only until December
32 1, 2024, and as of that date is repealed.

33 (2) Notwithstanding paragraph (1) of subdivision (a), this section
34 shall continue to be operative for taxable years beginning on or
35 after January 1, 2019, but only with respect to qualified full-time
36 employees who commenced employment with a qualified taxpayer
37 in a designated census tract or former enterprise zone in a taxable
38 year beginning before January 1, 2019.

39 (3) This section shall remain operative for any qualified taxpayer
40 with respect to any qualified full-time employee after the

1 designated census tract is no longer designated or a former
2 enterprise zone ceases to be a former enterprise zone, as defined
3 in this section, for the remaining period, if any, of the 60-month
4 period after the original date of hiring of an otherwise qualified
5 full-time employee and any wages paid or incurred with respect
6 to those qualified full-time employees after the designated census
7 tract is no longer designated or a former enterprise zone ceases to
8 be a former enterprise zone, as defined in this section, shall be
9 treated as qualified wages under this section, provided the
10 employee satisfies any other requirements of paragraphs (10) and
11 (12) of subdivision (b), as if the designated census tract was still
12 designated and binding.

13 ~~SEC. 33.~~

14 *SEC. 34.* Section 23633 of the Revenue and Taxation Code is
15 amended to read:

16 23633. (a) For each taxable year beginning on or after January
17 1, 1998, and before January 1, 2014, there shall be allowed as a
18 credit against the “tax” (as defined by Section 23036) for the
19 taxable year an amount equal to the sales or use tax paid or incurred
20 during the taxable year by the qualified taxpayer in connection
21 with the qualified taxpayer’s purchase of qualified property before
22 January 1, 2014.

23 (b) For purposes of this section:

24 (1) “Qualified property” means property that meets all of the
25 following requirements:

26 (A) Is any of the following:

27 (i) Machinery and machinery parts used for fabricating,
28 processing, assembling, and manufacturing.

29 (ii) Machinery and machinery parts used for the production of
30 renewable energy resources.

31 (iii) Machinery and machinery parts used for either of the
32 following:

33 (I) Air pollution control mechanisms.

34 (II) Water pollution control mechanisms.

35 (iv) Data-processing and communications equipment, such as
36 computers, computer-automated drafting systems, copy machines,
37 telephone systems, and faxes.

38 (v) Motion picture manufacturing equipment central to
39 production and post production, such as cameras, audio recorders,
40 and digital image and sound processing equipment.

1 (B) The total cost of qualified property purchased and placed
2 in service in any taxable year that may be taken into account by
3 any qualified taxpayer for purposes of claiming this credit shall
4 not exceed twenty million dollars (\$20,000,000).

5 (C) The qualified property is used by the qualified taxpayer
6 exclusively in a targeted tax area.

7 (D) The qualified property is purchased and placed in service
8 before the date the targeted tax area designation expires, is revoked,
9 is no longer binding, or becomes inoperative.

10 (2) (A) “Qualified taxpayer” means a corporation that meets
11 both of the following:

12 (i) Is engaged in a trade or business within a targeted tax area
13 designated pursuant to Chapter 12.93 (commencing with Section
14 7097) of Division 7 of Title 1 of the Government Code.

15 (ii) Is engaged in those lines of business described in Codes
16 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
17 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
18 of the Standard Industrial Classification (SIC) Manual published
19 by the United States Office of Management and Budget, 1987
20 edition.

21 (B) In the case of any pass-through entity, the determination of
22 whether a taxpayer is a qualified taxpayer under this section shall
23 be made at the entity level and any credit under this section or
24 Section 17053.33 shall be allowed to the pass-through entity and
25 passed through to the partners or shareholders in accordance with
26 applicable provisions of this part or Part 10 (commencing with
27 Section 17001). For purposes of this subparagraph, the term
28 “pass-through entity” means any partnership or S corporation.

29 (3) “Targeted tax area” means the area designated pursuant to
30 Chapter 12.93 (commencing with Section 7097) of Division 7 of
31 Title 1 of the Government Code.

32 (c) If the qualified taxpayer is allowed a credit for qualified
33 property pursuant to this section, only one credit shall be allowed
34 to the taxpayer under this part with respect to that qualified
35 property.

36 (d) If the qualified taxpayer has purchased property upon which
37 a use tax has been paid or incurred, the credit provided by this
38 section shall be allowed only if qualified property of a comparable
39 quality and price is not timely available for purchase in this state.

1 (e) In the case where the credit otherwise allowed under this
2 section exceeds the “tax” for the taxable year, that portion of the
3 credit that exceeds the “tax” may be carried over and added to the
4 credit, if any, in the succeeding five taxable years, if necessary,
5 until the credit is exhausted. The credit shall be applied first to the
6 earliest taxable years possible.

7 (f) Any qualified taxpayer who elects to be subject to this section
8 shall not be entitled to increase the basis of the qualified property
9 as otherwise required by Section 164(a) of the Internal Revenue
10 Code with respect to sales or use tax paid or incurred in connection
11 with the qualified taxpayer’s purchase of qualified property.

12 (g) (1) The amount of credit otherwise allowed under this
13 section and Section 23634, including any credit carryover from
14 prior years, that may reduce the “tax” for the taxable year shall
15 not exceed the amount of tax that would be imposed on the
16 qualified taxpayer’s business income attributable to the targeted
17 tax area determined as if that attributable income represented all
18 of the income of the qualified taxpayer subject to tax under this
19 part.

20 (2) Attributable income shall be that portion of the taxpayer’s
21 California source business income that is apportioned to the
22 targeted tax area. For that purpose, the taxpayer’s business income
23 attributable to sources in this state first shall be determined in
24 accordance with Chapter 17 (commencing with Section 25101).
25 That business income shall be further apportioned to the targeted
26 tax area in accordance with Article 2 (commencing with Section
27 25120) of Chapter 17, modified for purposes of this section in
28 accordance with paragraph (3).

29 (3) Business income shall be apportioned to the targeted tax
30 area by multiplying the total California business income of the
31 taxpayer by a fraction, the numerator of which is the property
32 factor plus the payroll factor, and the denominator of which is two.
33 For purposes of this paragraph:

34 (A) The property factor is a fraction, the numerator of which is
35 the average value of the taxpayer’s real and tangible personal
36 property owned or rented and used in the targeted tax area during
37 the taxable year and the denominator of which is the average value
38 of all the taxpayer’s real and tangible personal property owned or
39 rented and used in this state during the taxable year.

1 (B) The payroll factor is a fraction, the numerator of which is
2 the total amount paid by the taxpayer in the targeted tax area during
3 the taxable year for compensation, and the denominator of which
4 is the total compensation paid by the taxpayer in this state during
5 the taxable year.

6 (4) The portion of any credit remaining, if any, after application
7 of this subdivision, shall be carried over to succeeding taxable
8 years, if necessary, until the credit is exhausted, as if it were an
9 amount exceeding the “tax” for the taxable year, as provided in
10 subdivision (e). However, the portion of any credit remaining for
11 carryover to taxable years beginning on or after January 1, 2014,
12 if any, after application of this subdivision, shall be carried over
13 only to the succeeding five taxable years if necessary, until the
14 credit is exhausted, as if it were an amount exceeding the “tax”
15 for the taxable year, as provided in subdivision (e).

16 (5) In the event that a credit carryover is allowable under
17 subdivision (e) for any taxable year after the targeted tax area
18 designation has expired, has been revoked, is no longer binding,
19 or has become inoperative, the targeted tax area shall be deemed
20 to remain in existence for purposes of computing the limitation
21 specified in this subdivision.

22 (h) The changes made to this section by the act adding this
23 subdivision shall apply to taxable years beginning on or after
24 January 1, 1998.

25 (i) This section is repealed on December 1, 2014.

26 ~~SEC. 34.~~

27 *SEC. 35.* Section 23634 of the Revenue and Taxation Code is
28 amended to read:

29 23634. (a) For each taxable year beginning on or after January
30 1, 1998, there shall be allowed a credit against the “tax” (as defined
31 by Section 23036) to a qualified taxpayer who employs a qualified
32 employee in a targeted tax area during the taxable year. The credit
33 shall be equal to the sum of each of the following:

34 (1) Fifty percent of qualified wages in the first year of
35 employment.

36 (2) Forty percent of qualified wages in the second year of
37 employment.

38 (3) Thirty percent of qualified wages in the third year of
39 employment.

1 (4) Twenty percent of qualified wages in the fourth year of
2 employment.

3 (5) Ten percent of qualified wages in the fifth year of
4 employment.

5 (b) For purposes of this section:

6 (1) “Qualified wages” means:

7 (A) That portion of wages paid or incurred by the qualified
8 taxpayer during the taxable year to qualified employees that does
9 not exceed 150 percent of the minimum wage.

10 (B) Wages received during the 60-month period beginning with
11 the first day the employee commences employment with the
12 qualified taxpayer. Reemployment in connection with any increase,
13 including a regularly occurring seasonal increase, in the trade or
14 business operations of the qualified taxpayer does not constitute
15 commencement of employment for purposes of this section.

16 (C) Qualified wages do not include any wages paid or incurred
17 by the qualified taxpayer on or after the targeted tax area expiration
18 date. However, wages paid or incurred with respect to qualified
19 employees who are employed by the qualified taxpayer within the
20 targeted tax area within the 60-month period prior to the targeted
21 tax area expiration date shall continue to qualify for the credit
22 under this section after the targeted tax area expiration date, in
23 accordance with all provisions of this section applied as if the
24 targeted tax area designation were still in existence and binding.

25 (2) “Minimum wage” means the wage established by the
26 Industrial Welfare Commission as provided for in Chapter 1
27 (commencing with Section 1171) of Part 4 of Division 2 of the
28 Labor Code.

29 (3) “Targeted tax area expiration date” means the date the
30 targeted tax area designation expires, is revoked, is no longer
31 binding, becomes inoperative, or is repealed.

32 (4) (A) “Qualified employee” means an individual who meets
33 all of the following requirements:

34 (i) At least 90 percent of his or her services for the qualified
35 taxpayer during the taxable year are directly related to the conduct
36 of the qualified taxpayer’s trade or business located in a targeted
37 tax area.

38 (ii) Performs at least 50 percent of his or her services for the
39 qualified taxpayer during the taxable year in a targeted tax area.

- 1 (iii) Is hired by the qualified taxpayer after the date of original
- 2 designation of the area in which services were performed as a
- 3 targeted tax area.
- 4 (iv) Is any of the following:
- 5 (I) Immediately preceding the qualified employee’s
- 6 commencement of employment with the qualified taxpayer, was
- 7 a person eligible for services under the federal Job Training
- 8 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
- 9 who is receiving, or is eligible to receive, subsidized employment,
- 10 training, or services funded by the federal Job Training Partnership
- 11 Act, or its successor.
- 12 (II) Immediately preceding the qualified employee’s
- 13 commencement of employment with the qualified taxpayer, was
- 14 a person eligible to be a voluntary or mandatory registrant under
- 15 the Greater Avenues for Independence Act of 1985 (GAIN)
- 16 provided for pursuant to Article 3.2 (commencing with Section
- 17 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
- 18 Institutions Code, or its successor.
- 19 (III) Immediately preceding the qualified employee’s
- 20 commencement of employment with the qualified taxpayer, was
- 21 an economically disadvantaged individual 14 years of age or older.
- 22 (IV) Immediately preceding the qualified employee’s
- 23 commencement of employment with the qualified taxpayer, was
- 24 a dislocated worker who meets any of the following:
- 25 (aa) Has been terminated or laid off or who has received a notice
- 26 of termination or layoff from employment, is eligible for or has
- 27 exhausted entitlement to unemployment insurance benefits, and
- 28 is unlikely to return to his or her previous industry or occupation.
- 29 (bb) Has been terminated or has received a notice of termination
- 30 of employment as a result of any permanent closure or any
- 31 substantial layoff at a plant, facility, or enterprise, including an
- 32 individual who has not received written notification but whose
- 33 employer has made a public announcement of the closure or layoff.
- 34 (cc) Is long-term unemployed and has limited opportunities for
- 35 employment or reemployment in the same or a similar occupation
- 36 in the area in which the individual resides, including an individual
- 37 55 years of age or older who may have substantial barriers to
- 38 employment by reason of age.
- 39 (dd) Was self-employed (including farmers and ranchers) and
- 40 is unemployed as a result of general economic conditions in the

1 community in which he or she resides or because of natural
2 disasters.

3 (ee) Was a civilian employee of the Department of Defense
4 employed at a military installation being closed or realigned under
5 the Defense Base Closure and Realignment Act of 1990.

6 (ff) Was an active member of the Armed Forces or National
7 Guard as of September 30, 1990, and was either involuntarily
8 separated or separated pursuant to a special benefits program.

9 (gg) Is a seasonal or migrant worker who experiences chronic
10 seasonal unemployment and underemployment in the agriculture
11 industry, aggravated by continual advancements in technology and
12 mechanization.

13 (hh) Has been terminated or laid off, or has received a notice
14 of termination or layoff, as a consequence of compliance with the
15 Clean Air Act.

16 (V) Immediately preceding the qualified employee's
17 commencement of employment with the qualified taxpayer, was
18 a disabled individual who is eligible for or enrolled in, or has
19 completed a state rehabilitation plan or is a service-connected
20 disabled veteran, veteran of the Vietnam era, or veteran who is
21 recently separated from military service.

22 (VI) Immediately preceding the qualified employee's
23 commencement of employment with the qualified taxpayer, was
24 an ex-offender. An individual shall be treated as convicted if he
25 or she was placed on probation by a state court without a finding
26 of guilt.

27 (VII) Immediately preceding the qualified employee's
28 commencement of employment with the qualified taxpayer, was
29 a person eligible for or a recipient of any of the following:

30 (aa) Federal Supplemental Security Income benefits.

31 (bb) Aid to Families with Dependent Children.

32 (cc) CalFresh benefits.

33 (dd) State and local general assistance.

34 (VIII) Immediately preceding the qualified employee's
35 commencement of employment with the qualified taxpayer, was
36 a member of a federally recognized Indian tribe, band, or other
37 group of Native American descent.

38 (IX) Immediately preceding the qualified employee's
39 commencement of employment with the qualified taxpayer, was
40 a resident of a targeted tax area.

1 (X) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was a member
3 of a targeted group, as defined in Section 51(d) of the Internal
4 Revenue Code, or its successor.

5 (B) Priority for employment shall be provided to an individual
6 who is enrolled in a qualified program under the federal Job
7 Training Partnership Act or the Greater Avenues for Independence
8 Act of 1985 or who is eligible as a member of a targeted group
9 under the Work Opportunity Tax Credit (Section 51 of the Internal
10 Revenue Code), or its successor.

11 (5) (A) "Qualified taxpayer" means a person or entity that meets
12 both of the following:

13 (i) Is engaged in a trade or business within a targeted tax area
14 designated pursuant to Chapter 12.93 (commencing with Section
15 7097) of Division 7 of Title 1 of the Government Code.

16 (ii) Is engaged in those lines of business described in Codes
17 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
18 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
19 of the Standard Industrial Classification (SIC) Manual published
20 by the United States Office of Management and Budget, 1987
21 edition.

22 (B) In the case of any passthrough entity, the determination of
23 whether a taxpayer is a qualified taxpayer under this section shall
24 be made at the entity level and any credit under this section or
25 Section 17053.34 shall be allowed to the passthrough entity and
26 passed through to the partners or shareholders in accordance with
27 applicable provisions of this part or Part 10 (commencing with
28 Section 17001). For purposes of this subparagraph, the term
29 "passthrough entity" means any partnership or S corporation.

30 (6) "Seasonal employment" means employment by a qualified
31 taxpayer that has regular and predictable substantial reductions in
32 trade or business operations.

33 (c) If the qualified taxpayer is allowed a credit for qualified
34 wages pursuant to this section, only one credit shall be allowed to
35 the taxpayer under this part with respect to those qualified wages.

36 (d) The qualified taxpayer shall do both of the following:

37 (1) Obtain from the Employment Development Department, as
38 permitted by federal law, the local county or city Job Training
39 Partnership Act administrative entity, the local county GAIN office
40 or social services agency, or the local government administering

1 the targeted tax area, a certification that provides that a qualified
2 employee meets the eligibility requirements specified in clause
3 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
4 Employment Development Department may provide preliminary
5 screening and referral to a certifying agency. The Department of
6 Housing and Community Development shall develop regulations
7 for the issuance of certificates pursuant to subdivision (g) of
8 Section 7097 of the Government Code, and shall develop forms
9 for this purpose.

10 (2) Retain a copy of the certification and provide it upon request
11 to the Franchise Tax Board.

12 (e) (1) For purposes of this section:

13 (A) All employees of all corporations that are members of the
14 same controlled group of corporations shall be treated as employed
15 by a single taxpayer.

16 (B) The credit, if any, allowable by this section to each member
17 shall be determined by reference to its proportionate share of the
18 expense of the qualified wages giving rise to the credit, and shall
19 be allocated in that manner.

20 (C) For purposes of this subdivision, “controlled group of
21 corporations” means “controlled group of corporations” as defined
22 in Section 1563(a) of the Internal Revenue Code, except that:

23 (i) “More than 50 percent” shall be substituted for “at least 80
24 percent” each place it appears in Section 1563(a)(1) of the Internal
25 Revenue Code.

26 (ii) The determination shall be made without regard to
27 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
28 Revenue Code.

29 (2) If an employer acquires the major portion of a trade or
30 business of another employer (hereinafter in this paragraph referred
31 to as the “predecessor”) or the major portion of a separate unit of
32 a trade or business of a predecessor, then, for purposes of applying
33 this section (other than subdivision (f)) for any calendar year ending
34 after that acquisition, the employment relationship between a
35 qualified employee and an employer shall not be treated as
36 terminated if the employee continues to be employed in that trade
37 or business.

38 (f) (1) (A) If the employment, other than seasonal employment,
39 of any qualified employee with respect to whom qualified wages
40 are taken into account under subdivision (a) is terminated by the

1 qualified taxpayer at any time during the first 270 days of that
2 employment (whether or not consecutive) or before the close of
3 the 270th calendar day after the day in which that employee
4 completes 90 days of employment with the qualified taxpayer, the
5 tax imposed by this part for the taxable year in which that
6 employment is terminated shall be increased by an amount equal
7 to the credit allowed under subdivision (a) for that taxable year
8 and all prior taxable years attributable to qualified wages paid or
9 incurred with respect to that employee.

10 (B) If the seasonal employment of any qualified employee, with
11 respect to whom qualified wages are taken into account under
12 subdivision (a) is not continued by the qualified taxpayer for a
13 period of 270 days of employment during the 60-month period
14 beginning with the day the qualified employee commences seasonal
15 employment with the qualified taxpayer, the tax imposed by this
16 part, for the taxable year that includes the 60th month following
17 the month in which the qualified employee commences seasonal
18 employment with the qualified taxpayer, shall be increased by an
19 amount equal to the credit allowed under subdivision (a) for that
20 taxable year and all prior taxable years attributable to qualified
21 wages paid or incurred with respect to that qualified employee.

22 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
23 any of the following:

24 (i) A termination of employment of a qualified employee who
25 voluntarily leaves the employment of the qualified taxpayer.

26 (ii) A termination of employment of a qualified employee who,
27 before the close of the period referred to in subparagraph (A) of
28 paragraph (1), becomes disabled and unable to perform the services
29 of that employment, unless that disability is removed before the
30 close of that period and the qualified taxpayer fails to offer
31 reemployment to that employee.

32 (iii) A termination of employment of a qualified employee, if
33 it is determined that the termination was due to the misconduct (as
34 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
35 the California Code of Regulations) of that employee.

36 (iv) A termination of employment of a qualified employee due
37 to a substantial reduction in the trade or business operations of the
38 taxpayer.

39 (v) A termination of employment of a qualified employee, if
40 that employee is replaced by other qualified employees so as to

1 create a net increase in both the number of employees and the
2 hours of employment.

3 (B) Subparagraph (B) of paragraph (1) shall not apply to any
4 of the following:

5 (i) A failure to continue the seasonal employment of a qualified
6 employee who voluntarily fails to return to the seasonal
7 employment of the qualified taxpayer.

8 (ii) A failure to continue the seasonal employment of a qualified
9 employee who, before the close of the period referred to in
10 subparagraph (B) of paragraph (1), becomes disabled and unable
11 to perform the services of that seasonal employment, unless that
12 disability is removed before the close of that period and the
13 qualified taxpayer fails to offer seasonal employment to that
14 qualified employee.

15 (iii) A failure to continue the seasonal employment of a qualified
16 employee, if it is determined that the failure to continue the
17 seasonal employment was due to the misconduct (as defined in
18 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
19 Code of Regulations) of that qualified employee.

20 (iv) A failure to continue seasonal employment of a qualified
21 employee due to a substantial reduction in the regular seasonal
22 trade or business operations of the qualified taxpayer.

23 (v) A failure to continue the seasonal employment of a qualified
24 employee, if that qualified employee is replaced by other qualified
25 employees so as to create a net increase in both the number of
26 seasonal employees and the hours of seasonal employment.

27 (C) For purposes of paragraph (1), the employment relationship
28 between the qualified taxpayer and a qualified employee shall not
29 be treated as terminated by either of the following:

30 (i) By a transaction to which Section 381(a) of the Internal
31 Revenue Code applies, if the qualified employee continues to be
32 employed by the acquiring corporation.

33 (ii) By reason of a mere change in the form of conducting the
34 trade or business of the qualified taxpayer, if the qualified
35 employee continues to be employed in that trade or business and
36 the qualified taxpayer retains a substantial interest in that trade or
37 business.

38 (3) Any increase in tax under paragraph (1) shall not be treated
39 as tax imposed by this part for purposes of determining the amount
40 of any credit allowable under this part.

1 (g) Rules similar to the rules provided in Sections 46(e) and (h)
2 of the Internal Revenue Code shall apply to both of the following:

3 (1) An organization to which Section 593 of the Internal
4 Revenue Code applies.

5 (2) A regulated investment company or a real estate investment
6 trust subject to taxation under this part.

7 (h) For purposes of this section, “targeted tax area” means an
8 area designated pursuant to Chapter 12.93 (commencing with
9 Section 7097) of Division 7 of Title 1 of the Government Code.

10 (i) In the case where the credit otherwise allowed under this
11 section exceeds the “tax” for the taxable year, that portion of the
12 credit that exceeds the “tax” may be carried over and added to the
13 credit, if any, in the succeeding five taxable years, if necessary,
14 until the credit is exhausted. The credit shall be applied first to the
15 earliest taxable years possible.

16 (j) (1) The amount of the credit otherwise allowed under this
17 section and Section 23633, including any credit carryover from
18 prior years, that may reduce the “tax” for the taxable year shall
19 not exceed the amount of tax that would be imposed on the
20 qualified taxpayer’s business income attributable to the targeted
21 tax area determined as if that attributable income represented all
22 of the income of the qualified taxpayer subject to tax under this
23 part.

24 (2) Attributable income shall be that portion of the taxpayer’s
25 California source business income that is apportioned to the
26 targeted tax area. For that purpose, the taxpayer’s business income
27 attributable to sources in this state first shall be determined in
28 accordance with Chapter 17 (commencing with Section 25101).
29 That business income shall be further apportioned to the targeted
30 tax area in accordance with Article 2 (commencing with Section
31 25120) of Chapter 17, modified for purposes of this section in
32 accordance with paragraph (3).

33 (3) Business income shall be apportioned to the targeted tax
34 area by multiplying the total California business income of the
35 taxpayer by a fraction, the numerator of which is the property
36 factor plus the payroll factor, and the denominator of which is two.
37 For purposes of this paragraph:

38 (A) The property factor is a fraction, the numerator of which is
39 the average value of the taxpayer’s real and tangible personal
40 property owned or rented and used in the targeted tax area during

1 the taxable year, and the denominator of which is the average value
2 of all the taxpayer's real and tangible personal property owned or
3 rented and used in this state during the taxable year.

4 (B) The payroll factor is a fraction, the numerator of which is
5 the total amount paid by the taxpayer in the targeted tax area during
6 the taxable year for compensation, and the denominator of which
7 is the total compensation paid by the taxpayer in this state during
8 the taxable year.

9 (4) The portion of any credit remaining, if any, after application
10 of this subdivision, shall be carried over to succeeding taxable
11 years, if necessary, until the credit is exhausted, as if it were an
12 amount exceeding the "tax" for the taxable year, as provided in
13 subdivision (i). However, the portion of any credit remaining for
14 carryover to taxable years beginning on or after January 1, 2014,
15 if any, after application of this subdivision, shall be carried over
16 only to the succeeding five taxable years if necessary, until the
17 credit is exhausted, as if it were an amount exceeding the "tax"
18 for the taxable year, as provided in subdivision (i).

19 (5) In the event that a credit carryover is allowable under
20 subdivision (h) for any taxable year after the targeted tax area
21 designation has expired or been revoked, the targeted tax area shall
22 be deemed to remain in existence for purposes of computing the
23 limitation specified in this subdivision.

24 (k) (1) Except as provided in paragraph (2), this section shall
25 cease to be operative for taxable years beginning on or after January
26 1, 2014, and shall be repealed on December 1, 2019.

27 (2) The section shall continue to apply with respect to qualified
28 employees who are employed by the qualified taxpayer within the
29 targeted tax area within the 60-month period immediately preceding
30 January 1, 2014, and qualified wages paid or incurred with respect
31 to those qualified employees shall continue to qualify for the credit
32 under this section for taxable years beginning on or after January
33 1, 2014, in accordance with this section, as amended by the act
34 adding this subdivision.

35 ~~SEC. 35.~~

36 *SEC. 36.* Section 23645 of the Revenue and Taxation Code is
37 amended to read:

38 23645. (a) For each taxable year beginning on or after January
39 1, 1995, and before January 1, 2014, there shall be allowed as a
40 credit against the "tax" (as defined by Section 23036) for the

1 taxable year an amount equal to the sales or use tax paid or incurred
2 by the taxpayer in connection with the purchase of qualified
3 property before January 1, 2014, to the extent that the qualified
4 property does not exceed a value of twenty million dollars
5 (\$20,000,000).

6 (b) For purposes of this section:

7 (1) “LAMBRA” means a local agency military base recovery
8 area designated in accordance with Section 7114 of the Government
9 Code.

10 (2) “Taxpayer” means a corporation that conducts a trade or
11 business within a LAMBRA and, for the first two taxable years,
12 has a net increase in jobs (defined as 2,000 paid hours per employee
13 per year) of one or more employees in the LAMBRA.

14 (A) The net increase in the number of jobs shall be determined
15 by subtracting the total number of full-time employees (defined
16 as 2,000 paid hours per employee per year) the taxpayer employed
17 in this state in the taxable year prior to commencing business
18 operations in the LAMBRA from the total number of full-time
19 employees the taxpayer employed in this state during the second
20 taxable year after commencing business operations in the
21 LAMBRA. For taxpayers who commence doing business in this
22 state with their LAMBRA business operation, the number of
23 employees for the taxable year prior to commencing business
24 operations in the LAMBRA shall be zero. If the taxpayer has a net
25 increase in jobs in the state, the credit shall be allowed only if one
26 or more full-time employees is employed within the LAMBRA.

27 (B) The total number of employees employed in the LAMBRA
28 shall equal the sum of both of the following:

29 (i) The total number of hours worked in the LAMBRA for the
30 taxpayer by employees (not to exceed 2,000 hours per employee)
31 who are paid an hourly wage divided by 2,000.

32 (ii) The total number of months worked in the LAMBRA for
33 the taxpayer by employees that are salaried employees divided by
34 12.

35 (C) In the case of a taxpayer who first commences doing
36 business in the LAMBRA during the taxable year, for purposes of
37 clauses (i) and (ii), respectively, of subparagraph (B) the divisors
38 “2,000” and “12” shall be multiplied by a fraction, the numerator
39 of which is the number of months of the taxable year that the

1 taxpayer was doing business in the LAMBRA and the denominator
2 of which is 12.

3 (3) “Qualified property” means property that is each of the
4 following:

5 (A) Purchased by the taxpayer for exclusive use in a trade or
6 business conducted within a LAMBRA.

7 (B) Purchased before the date the LAMBRA designation expires,
8 is no longer binding, or becomes inoperative.

9 (C) Any of the following:

10 (i) High technology equipment, including, but not limited to,
11 computers and electronic processing equipment.

12 (ii) Aircraft maintenance equipment, including, but not limited
13 to, engine stands, hydraulic mules, power carts, test equipment,
14 handtools, aircraft start carts, and tugs.

15 (iii) Aircraft components, including, but not limited to, engines,
16 fuel control units, hydraulic pumps, avionics, starts, wheels, and
17 tires.

18 (iv) Section 1245 property, as defined in Section 1245(a)(3) of
19 the Internal Revenue Code.

20 (c) The credit provided under subdivision (a) shall only be
21 allowed for qualified property manufactured in California unless
22 qualified property of a comparable quality and price is not available
23 for timely purchase and delivery from a California manufacturer.

24 (d) In the case where the credit otherwise allowed under this
25 section exceeds the “tax” for the taxable year, that portion of the
26 credit which exceeds the “tax” may be carried over and added to
27 the credit, if any, in the succeeding five taxable years, if necessary,
28 until the credit is exhausted. The credit shall be applied first to the
29 earliest taxable years possible.

30 (e) Any taxpayer who elects to be subject to this section shall
31 not be entitled to increase the basis of the property as otherwise
32 required by Section 164(a) of the Internal Revenue Code with
33 respect to sales or use tax paid or incurred in connection with the
34 purchase of qualified property.

35 (f) (1) The amount of the credit otherwise allowed under this
36 section and Section 23646, including any credit carryovers from
37 prior years, that may reduce the “tax” for the taxable year shall
38 not exceed the amount of tax that would be imposed on the
39 taxpayer’s business income attributed to a LAMBRA determined

1 as if that attributable income represented all the income of the
2 taxpayer subject to tax under this part.

3 (2) Attributable income shall be that portion of the taxpayer's
4 California source business income that is apportioned to the
5 LAMBRA. For that purpose, the taxpayer's business income that
6 is attributable to sources in this state shall first be determined in
7 accordance with Chapter 17 (commencing with Section 25101).
8 That business income shall be further apportioned to the LAMBRA
9 in accordance with Article 2 (commencing with Section 25120)
10 of Chapter 17, modified for purposes of this section in accordance
11 with paragraph (3).

12 (3) Income shall be apportioned to a LAMBRA by multiplying
13 the total California business income of the taxpayer by a fraction,
14 the numerator of which is the property factor, plus the payroll
15 factor, and the denominator of which is two. For purposes of this
16 paragraph:

17 (A) The property factor is a fraction, the numerator of which is
18 the average value of the taxpayer's real and tangible personal
19 property owned or rented and used in the LAMBRA during the
20 taxable year, and the denominator of which is the average value
21 of all the taxpayer's real and tangible personal property owned or
22 rented and used in this state during the taxable year.

23 (B) The payroll factor is a fraction, the numerator of which is
24 the total amount paid by the taxpayer in the LAMBRA during the
25 taxable year for compensation, and the denominator of which is
26 the total compensation paid by the taxpayer in this state during the
27 taxable year.

28 (4) The portion of any credit remaining, if any, after application
29 of this subdivision, shall be carried over to succeeding taxable
30 years, if necessary, until the credit is exhausted, as if it were an
31 amount exceeding the "tax" for the taxable year, as provided in
32 subdivision (d). However, the portion of any credit remaining for
33 carryover to taxable years beginning on or after January 1, 2014,
34 if any, after application of this subdivision, shall be carried over
35 only to the succeeding five taxable years, if necessary, until the
36 credit is exhausted, as if it were an amount exceeding the "tax"
37 for the taxable year, as provided in subdivision (d).

38 (g) (1) If the qualified property is disposed of or no longer used
39 by the taxpayer in the LAMBRA, at any time before the close of
40 the second taxable year after the property is placed in service, the

1 amount of the credit previously claimed, with respect to that
2 property, shall be added to the taxpayer's tax liability in the taxable
3 year of that disposition or nonuse.

4 (2) At the close of the second taxable year, if the taxpayer has
5 not increased the number of its employees as determined by
6 paragraph (2) of subdivision (b), then the amount of the credit
7 previously claimed shall be added to the taxpayer's tax for the
8 taxpayer's second taxable year.

9 (h) If the taxpayer is allowed a credit for qualified property
10 pursuant to this section, only one credit shall be allowed to the
11 taxpayer under this part with respect to that qualified property.

12 (i) The amendments made to this section by the act adding this
13 subdivision shall apply to taxable years beginning on or after
14 January 1, 1998.

15 (j) This section is repealed on December 1, 2014.

16 ~~SEC. 36.~~

17 *SEC. 37.* Section 23646 of the Revenue and Taxation Code is
18 amended to read:

19 23646. (a) For each taxable year beginning on or after January
20 1, 1995, there shall be allowed as a credit against the "tax" (as
21 defined in Section 23036) to a qualified taxpayer for hiring a
22 qualified disadvantaged individual or a qualified displaced
23 employee during the taxable year for employment in the LAMBRA.
24 The credit shall be equal to the sum of each of the following:

25 (1) Fifty percent of the qualified wages in the first year of
26 employment.

27 (2) Forty percent of the qualified wages in the second year of
28 employment.

29 (3) Thirty percent of the qualified wages in the third year of
30 employment.

31 (4) Twenty percent of the qualified wages in the fourth year of
32 employment.

33 (5) Ten percent of the qualified wages in the fifth year of
34 employment.

35 (b) For purposes of this section:

36 (1) "Qualified wages" means:

37 (A) That portion of wages paid or incurred by the employer
38 during the taxable year to qualified disadvantaged individuals or
39 qualified displaced employees that does not exceed 150 percent
40 of the minimum wage.

1 (B) The total amount of qualified wages which may be taken
2 into account for purposes of claiming the credit allowed under this
3 section shall not exceed two million dollars (\$2,000,000) per
4 taxable year.

5 (C) Wages received during the 60-month period beginning with
6 the first day the individual commences employment with the
7 taxpayer. Reemployment in connection with any increase, including
8 a regularly occurring seasonal increase, in the trade or business
9 operation of the qualified taxpayer does not constitute
10 commencement of employment for purposes of this section.

11 (D) Qualified wages do not include any wages paid or incurred
12 by the qualified taxpayer on or after the LAMBRA expiration date.
13 However, wages paid or incurred with respect to qualified
14 disadvantaged individuals or qualified displaced employees who
15 are employed by the qualified taxpayer within the LAMBRA within
16 the 60-month period prior to the LAMBRA expiration date shall
17 continue to qualify for the credit under this section after the
18 LAMBRA expiration date, in accordance with all provisions of
19 this section applied as if the LAMBRA designation were still in
20 existence and binding.

21 (2) “Minimum wage” means the wage established by the
22 Industrial Welfare Commission as provided for in Chapter 1
23 (commencing with Section 1171) of Part 4 of Division 2 of the
24 Labor Code.

25 (3) “LAMBRA” means a local agency military base recovery
26 area designated in accordance with the provisions of Section 7114
27 of the Government Code.

28 (4) “Qualified disadvantaged individual” means an individual
29 who satisfies all of the following requirements:

30 (A) (i) At least 90 percent of whose services for the taxpayer
31 during the taxable year are directly related to the conduct of the
32 taxpayer’s trade or business located in a LAMBRA.

33 (ii) Who performs at least 50 percent of his or her services for
34 the taxpayer during the taxable year in the LAMBRA.

35 (B) Who is hired by the employer after the designation of the
36 area as a LAMBRA in which the individual’s services were
37 primarily performed.

38 (C) Who is any of the following immediately preceding the
39 individual’s commencement of employment with the taxpayer:

- 1 (i) An individual who has been determined eligible for services
2 under the federal Job Training Partnership Act (29 U.S.C. Sec.
3 1501 et seq.), or its successor.
- 4 (ii) Any voluntary or mandatory registrant under the Greater
5 Avenues for Independence Act of 1985 provided for pursuant to
6 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
7 3 of Division 9 of the Welfare and Institutions Code.
- 8 (iii) An economically disadvantaged individual 16 years of age
9 or older.
- 10 (iv) A dislocated worker who meets any of the following
11 conditions:
- 12 (I) Has been terminated or laid off or who has received a notice
13 of termination or layoff from employment, is eligible for or has
14 exhausted entitlement to unemployment insurance benefits, and
15 is unlikely to return to his or her previous industry or occupation.
- 16 (II) Has been terminated or has received a notice of termination
17 of employment as a result of any permanent closure or any
18 substantial layoff at a plant, facility, or enterprise, including an
19 individual who has not received written notification but whose
20 employer has made a public announcement of the closure or layoff.
- 21 (III) Is long-term unemployed and has limited opportunities for
22 employment or reemployment in the same or a similar occupation
23 in the area in which the individual resides, including an individual
24 55 years of age or older who may have substantial barriers to
25 employment by reason of age.
- 26 (IV) Was self-employed (including farmers and ranchers) and
27 is unemployed as a result of general economic conditions in the
28 community in which he or she resides or because of natural
29 disasters.
- 30 (V) Was a civilian employee of the Department of Defense
31 employed at a military installation being closed or realigned under
32 the Defense Base Closure and Realignment Act of 1990.
- 33 (VI) Was an active member of the Armed Forces or National
34 Guard as of September 30, 1990, and was either involuntarily
35 separated or separated pursuant to a special benefits program.
- 36 (VII) Experiences chronic seasonal unemployment and
37 underemployment in the agriculture industry, aggravated by
38 continual advancements in technology and mechanization.

1 (VIII) Has been terminated or laid off or has received a notice
2 of termination or layoff as a consequence of compliance with the
3 Clean Air Act.

4 (v) An individual who is enrolled in or has completed a state
5 rehabilitation plan or is a service-connected disabled veteran,
6 veteran of the Vietnam era, or veteran who is recently separated
7 from military service.

8 (vi) An ex-offender. An individual shall be treated as convicted
9 if he or she was placed on probation by a state court without a
10 finding of guilty.

11 (vii) A recipient of:

12 (I) Federal Supplemental Security Income benefits.

13 (II) Aid to Families with Dependent Children.

14 (III) CalFresh benefits.

15 (IV) State and local general assistance.

16 (viii) Is a member of a federally recognized Indian tribe, band,
17 or other group of Native American descent.

18 (5) “Qualified taxpayer” means a corporation that conducts a
19 trade or business within a LAMBRA and, for the first two taxable
20 years, has a net increase in jobs (defined as 2,000 paid hours per
21 employee per year) of one or more employees as determined below
22 in the LAMBRA.

23 (A) The net increase in the number of jobs shall be determined
24 by subtracting the total number of full-time employees (defined
25 as 2,000 paid hours per employee per year) the taxpayer employed
26 in this state in the taxable year prior to commencing business
27 operations in the LAMBRA from the total number of full-time
28 employees the taxpayer employed in this state during the second
29 taxable year after commencing business operations in the
30 LAMBRA. For taxpayers who commence doing business in this
31 state with their LAMBRA business operation, the number of
32 employees for the taxable year prior to commencing business
33 operations in the LAMBRA shall be zero. If the taxpayer has a net
34 increase in jobs in the state, the credit shall be allowed only if one
35 or more full-time employees is employed within the LAMBRA.

36 (B) The total number of employees employed in the LAMBRA
37 shall equal the sum of both of the following:

38 (i) The total number of hours worked in the LAMBRA for the
39 taxpayer by employees (not to exceed 2,000 hours per employee)
40 who are paid an hourly wage divided by 2,000.

1 (ii) The total number of months worked in the LAMBRA for
2 the taxpayer by employees who are salaried employees divided
3 by 12.

4 (C) In the case of a qualified taxpayer that first commences
5 doing business in the LAMBRA during the taxable year, for
6 purposes of clauses (i) and (ii), respectively, of subparagraph (B)
7 the divisors “2,000” and “12” shall be multiplied by a fraction, the
8 numerator of which is the number of months of the taxable year
9 that the taxpayer was doing business in the LAMBRA and the
10 denominator of which is 12.

11 (6) “Qualified displaced employee” means an individual who
12 satisfies all of the following requirements:

13 (A) Any civilian or military employee of a base or former base
14 that has been displaced as a result of a federal base closure act.

15 (B) (i) At least 90 percent of whose services for the taxpayer
16 during the taxable year are directly related to the conduct of the
17 taxpayer’s trade or business located in a LAMBRA.

18 (ii) Who performs at least 50 percent of his or her services for
19 the taxpayer during the taxable year in a LAMBRA.

20 (C) Who is hired by the employer after the designation of the
21 area in which services were performed as a LAMBRA.

22 (7) “Seasonal employment” means employment by a qualified
23 taxpayer that has regular and predictable substantial reductions in
24 trade or business operations.

25 (8) “LAMBRA expiration date” means the date the LAMBRA
26 designation expires, is no longer binding, becomes inoperative, or
27 is repealed.

28 (c) For qualified disadvantaged individuals or qualified displaced
29 employees hired on or after January 1, 2001, the taxpayer shall do
30 both of the following:

31 (1) Obtain from the Employment Development Department, as
32 permitted by federal law, the administrative entity of the local
33 county or city for the federal Job Training Partnership Act, or its
34 successor, the local county GAIN office or social services agency,
35 or the local government administering the LAMBRA, a
36 certification that provides that a qualified disadvantaged individual
37 or qualified displaced employee meets the eligibility requirements
38 specified in subparagraph (C) of paragraph (4) of subdivision (b)
39 or subparagraph (A) of paragraph (6) of subdivision (b). The
40 Employment Development Department may provide preliminary

1 screening and referral to a certifying agency. The Department of
2 Housing and Community Development shall develop regulations
3 governing the issuance of certificates pursuant to Section 7114.2
4 of the Government Code and shall develop forms for this purpose.

5 (2) Retain a copy of the certification and provide it upon request
6 to the Franchise Tax Board.

7 (d) (1) For purposes of this section, both of the following apply:

8 (A) All employees of all corporations that are members of the
9 same controlled group of corporations shall be treated as employed
10 by a single employer.

11 (B) The credit (if any) allowable by this section to each member
12 shall be determined by reference to its proportionate share of the
13 qualified wages giving rise to the credit.

14 (2) For purposes of this subdivision, “controlled group of
15 corporations” has the meaning given to that term by Section
16 1563(a) of the Internal Revenue Code, except that both of the
17 following apply:

18 (A) “More than 50 percent” shall be substituted for “at least 80
19 percent” each place it appears in Section 1563(a)(1) of the Internal
20 Revenue Code.

21 (B) The determination shall be made without regard to Section
22 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue
23 Code.

24 (3) If an employer acquires the major portion of a trade or
25 business of another employer (hereinafter in this paragraph referred
26 to as the “predecessor”) or the major portion of a separate unit of
27 a trade or business of a predecessor, then, for purposes of applying
28 this section (other than subdivision (e)) for any calendar year
29 ending after that acquisition, the employment relationship between
30 an employee and an employer shall not be treated as terminated if
31 the employee continues to be employed in that trade or business.

32 (e) (1) (A) If the employment of any employee, other than
33 seasonal employment, with respect to whom qualified wages are
34 taken into account under subdivision (a) is terminated by the
35 taxpayer at any time during the first 270 days of that employment
36 (whether or not consecutive) or before the close of the 270th
37 calendar day after the day in which that employee completes 90
38 days of employment with the taxpayer, the tax imposed by this
39 part for the taxable year in which that employment is terminated
40 shall be increased by an amount equal to the credit allowed under

1 subdivision (a) for that taxable year and all prior income years
2 attributable to qualified wages paid or incurred with respect to that
3 employee.

4 (B) If the seasonal employment of any qualified disadvantaged
5 individual, with respect to whom qualified wages are taken into
6 account under subdivision (a) is not continued by the qualified
7 taxpayer for a period of 270 days of employment during the
8 60-month period beginning with the day the qualified
9 disadvantaged individual commences seasonal employment with
10 the qualified taxpayer, the tax imposed by this part, for the taxable
11 year that includes the 60th month following the month in which
12 the qualified disadvantaged individual commences seasonal
13 employment with the qualified taxpayer, shall be increased by an
14 amount equal to the credit allowed under subdivision (a) for that
15 taxable year and all prior taxable years attributable to qualified
16 wages paid or incurred with respect to that qualified disadvantaged
17 individual.

18 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
19 any of the following:

20 (i) A termination of employment of an employee who voluntarily
21 leaves the employment of the taxpayer.

22 (ii) A termination of employment of an individual who, before
23 the close of the period referred to in paragraph (1), becomes
24 disabled to perform the services of that employment, unless that
25 disability is removed before the close of that period and the
26 taxpayer fails to offer reemployment to that individual.

27 (iii) A termination of employment of an individual, if it is
28 determined that the termination was due to the misconduct (as
29 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
30 the California Code of Regulations) of that individual.

31 (iv) A termination of employment of an individual due to a
32 substantial reduction in the trade or business operations of the
33 taxpayer.

34 (v) A termination of employment of an individual, if that
35 individual is replaced by other qualified employees so as to create
36 a net increase in both the number of employees and the hours of
37 employment.

38 (B) Subparagraph (B) of paragraph (1) shall not apply to any
39 of the following:

1 (i) A failure to continue the seasonal employment of a qualified
2 disadvantaged individual who voluntarily fails to return to the
3 seasonal employment of the qualified taxpayer.

4 (ii) A failure to continue the seasonal employment of a qualified
5 disadvantaged individual who, before the close of the period
6 referred to in subparagraph (B) of paragraph (1), becomes disabled
7 and unable to perform the services of that seasonal employment,
8 unless that disability is removed before the close of that period
9 and the qualified taxpayer fails to offer seasonal employment to
10 that qualified disadvantaged individual.

11 (iii) A failure to continue the seasonal employment of a qualified
12 disadvantaged individual, if it is determined that the failure to
13 continue the seasonal employment was due to the misconduct (as
14 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
15 the California Code of Regulations) of that individual.

16 (iv) A failure to continue seasonal employment of a qualified
17 disadvantaged individual due to a substantial reduction in the
18 regular seasonal trade or business operations of the qualified
19 taxpayer.

20 (v) A failure to continue the seasonal employment of a qualified
21 disadvantaged individual, if that individual is replaced by other
22 qualified disadvantaged individuals so as to create a net increase
23 in both the number of seasonal employees and the hours of seasonal
24 employment.

25 (C) For purposes of paragraph (1), the employment relationship
26 between the taxpayer and an employee shall not be treated as
27 terminated by either of the following:

28 (i) A transaction to which Section 381(a) of the Internal Revenue
29 Code applies, if the employee continues to be employed by the
30 acquiring corporation.

31 (ii) A mere change in the form of conducting the trade or
32 business of the taxpayer, if the employee continues to be employed
33 in that trade or business and the taxpayer retains a substantial
34 interest in that trade or business.

35 (3) Any increase in tax under paragraph (1) shall not be treated
36 as tax imposed by this part for purposes of determining the amount
37 of any credit allowable under this part.

38 (4) At the close of the second taxable year, if the taxpayer has
39 not increased the number of its employees as determined by
40 paragraph (5) of subdivision (b), then the amount of the credit

1 previously claimed shall be added to the taxpayer's tax for the
2 taxpayer's second taxable year.

3 (f) In the case of an organization to which Section 593 of the
4 Internal Revenue Code applies, and a regulated investment
5 company or a real estate investment trust subject to taxation under
6 this part, rules similar to the rules provided in Section 46(e) and
7 Section 46(h) of the Internal Revenue Code shall apply.

8 (g) The credit shall be reduced by the credit allowed under
9 Section 23621. The credit shall also be reduced by the federal
10 credit allowed under Section 51 of the Internal Revenue Code.

11 In addition, any deduction otherwise allowed under this part for
12 the wages or salaries paid or incurred by the taxpayer upon which
13 the credit is based shall be reduced by the amount of the credit,
14 prior to any reduction required by subdivision (h) or (i).

15 (h) In the case where the credit otherwise allowed under this
16 section exceeds the "tax" for the taxable year, that portion of the
17 credit that exceeds the "tax" may be carried over and added to the
18 credit, if any, in the succeeding five taxable years, if necessary,
19 until the credit is exhausted. The credit shall be applied first to the
20 earliest taxable years possible.

21 (i) (1) The amount of credit otherwise allowed under this section
22 and Section 23645, including any prior year carryovers, that may
23 reduce the "tax" for the taxable year shall not exceed the amount
24 of tax that would be imposed on the taxpayer's business income
25 attributed to a LAMBRA determined as if that attributed income
26 represented all of the income of the taxpayer subject to tax under
27 this part.

28 (2) Attributable income shall be that portion of the taxpayer's
29 California source business income that is apportioned to the
30 LAMBRA. For that purpose, the taxpayer's business income that
31 is attributable to sources in this state first shall be determined in
32 accordance with Chapter 17 (commencing with Section 25101).
33 That business income shall be further apportioned to the LAMBRA
34 in accordance with Article 2 (commencing with Section 25120)
35 of Chapter 17, modified for purposes of this section in accordance
36 with paragraph (3).

37 (3) Income shall be apportioned to a LAMBRA by multiplying
38 the total California business income of the taxpayer by a fraction,
39 the numerator of which is the property factor plus the payroll factor,

1 and the denominator of which is two. For purposes of this
2 paragraph:

3 (A) The property factor is a fraction, the numerator of which is
4 the average value of the taxpayer's real and tangible personal
5 property owned or rented and used in the LAMBRA during the
6 taxable year, and the denominator of which is the average value
7 of all the taxpayer's real and tangible personal property owned or
8 rented and used in this state during the taxable year.

9 (B) The payroll factor is a fraction, the numerator of which is
10 the total amount paid by the taxpayer in the LAMBRA during the
11 taxable year for compensation, and the denominator of which is
12 the total compensation paid by the taxpayer in this state during the
13 taxable year.

14 (4) The portion of any credit remaining, if any, after application
15 of this subdivision, shall be carried over to succeeding taxable
16 years, if necessary, until the credit is exhausted, as if it were an
17 amount exceeding the "tax" for the taxable year, as provided in
18 subdivision (h). However, the portion of any credit remaining for
19 carryover to taxable years beginning on or after January 1, 2014,
20 if any, after application of this subdivision, shall be carried over
21 only to the succeeding five taxable years, if necessary, until the
22 credit is exhausted, as if it were an amount exceeding the "tax"
23 for the taxable year, as provided in subdivision (h).

24 (j) If the taxpayer is allowed a credit pursuant to this section for
25 qualified wages paid or incurred, only one credit shall be allowed
26 to the taxpayer under this part with respect to any wage consisting
27 in whole or in part of those qualified wages.

28 (k) (1) Except as provided in paragraph (2), this section shall
29 cease to be operative for taxable years beginning on or after January
30 1, 2014, and shall be repealed on December 1, 2019.

31 (2) The section shall continue to apply with respect to qualified
32 employees who are employed by the qualified taxpayer within the
33 LAMBRA within the 60-month period immediately preceding
34 January 1, 2014, and qualified wages paid or incurred with respect
35 to those qualified employees shall continue to qualify for the credit
36 under this section for taxable years beginning on or after January
37 1, 2014, in accordance with this section, as amended by the act
38 adding this subdivision.

1 ~~SEC. 37.~~

2 *SEC. 38.* Section 23689 is added to the Revenue and Taxation
3 Code, to read:

4 23689. (a) (1) For each taxable year beginning on and after
5 January 1, 2014, and before January 1, 2025, there shall be allowed
6 as a credit against the “tax,” as defined in Section 23036, an amount
7 as determined by the committee pursuant to paragraph (2) and
8 approved pursuant to Section 18410.2.

9 (2) The amount of credit allocated to a taxpayer for a taxable
10 year pursuant to this section shall be as set forth in a written
11 agreement between GO-Biz and the taxpayer and shall be based
12 ~~on, but not limited to,~~ on the following factors:

13 (A) The number of jobs the taxpayer will create or retain in this
14 state.

15 (B) The compensation paid or proposed to be paid by the
16 taxpayer to its employees, including wages and fringe benefits.

17 (C) The amount of investment in this state by the taxpayer.

18 (D) The extent of unemployment in the area in which the
19 taxpayer’s project or business is proposed or located.

20 (E) The incentives available to the taxpayer in the state,
21 including incentives from the state, local government and other
22 entities.

23 (F) The incentives available to the taxpayer in other states.

24 (G) The duration of the proposed project and the duration the
25 taxpayer commits to remain in this state.

26 (H) The overall economic impact in this state of the taxpayer’s
27 project or business.

28 (I) The strategic importance of the taxpayer’s project or business
29 to the state, region, or locality.

30 (J) The opportunity for future growth and expansion in this state
31 by the taxpayer’s business.

32 (K) The extent to which the anticipated benefit to the state
33 exceeds the projected benefit to the taxpayer from the tax credit.

34 (3) The written agreement entered into pursuant to paragraph
35 (2) shall include:

36 (A) Terms and conditions that include a minimum compensation
37 level and a minimum job retention period.

38 (B) Provisions indicating whether the credit is to be allocated
39 in full upon approval or in increments based on mutually agreed
40 upon milestones when satisfactorily met by the taxpayer.

1 (C) Provisions that allow the committee to recapture the credit,
2 in whole or in part, if the taxpayer fails to fulfill the terms and
3 conditions of the written agreement.

4 (b) For purposes of this section:

5 (1) “Committee” means the California Competes Tax Credit
6 Committee established pursuant to Section 18410.2.

7 (2) “GO-Biz” means the Governor’s Office of Business and
8 Economic Development.

9 (c) For purposes of this section, GO-Biz shall do the following:

10 (1) Give priority to a taxpayer whose project or business is
11 located or proposed to be located in an area of high unemployment
12 or poverty.

13 (2) Negotiate with a taxpayer the terms and conditions of
14 proposed written agreements that provide the credit allowed
15 pursuant to this section to a taxpayer.

16 (3) Provide the negotiated written agreement to the committee
17 for its approval pursuant to Section 18410.2.

18 (4) Inform the Franchise Tax Board of the terms and conditions
19 of the written agreement upon approval of the written agreement
20 by the committee.

21 (5) Inform the Franchise Tax Board of any recapture, in whole
22 or in part, of a previously allocated credit upon approval of the
23 recapture by the committee.

24 (6) Post on its Internet Web site all of the following:

25 (A) The name of each taxpayer allocated a credit pursuant to
26 this section.

27 (B) The estimated amount of the investment by each taxpayer.

28 (C) The estimated number of jobs created or retained.

29 (D) The amount of the credit allocated to the taxpayer.

30 (E) The amount of the credit recaptured from the taxpayer, if
31 applicable.

32 (d) For purposes of this section, the Franchise Tax Board shall
33 do all of the following:

34 (1) (A) Except as provided in subparagraph (B), review the
35 books and records of all taxpayers allocated a credit pursuant to
36 this section to ensure compliance with the terms and conditions
37 of the written agreement between the taxpayer and GO-Biz.

38 (B) In the case of a taxpayer that is a “small business,” as
39 defined in Section 23626, review the books and records of the
40 taxpayer allocated a credit pursuant to this section to ensure

1 compliance with the terms and conditions of the written agreement
2 between the taxpayers and GO-Biz when, in the sole discretion of
3 the Franchise Tax Board, a review of those books and records is
4 appropriate or necessary in the best interests of the state.

5 (2) Notwithstanding Section 19542:

6 (A) Notify GO-Biz of a possible breach of the written agreement
7 by a taxpayer and provide detailed information regarding the basis
8 for that determination.

9 (B) Provide information to GO-Biz with respect to whether a
10 taxpayer is a “small business,” as defined in Section 23626.

11 (e) In the case where the credit allowed under this section
12 exceeds the “tax,” as defined in Section 23036, for a taxable year,
13 the excess credit may be carried over to reduce the “tax” in the
14 following taxable year, and succeeding five taxable years, if
15 necessary, until the credit has been exhausted.

16 (f) Any recapture, in whole or in part, of a credit approved by
17 the committee pursuant to Section 18410.2 shall be treated as a
18 mathematical error appearing on the return. Any amount of tax
19 resulting from that recapture shall be assessed by the Franchise
20 Tax Board in the same manner as provided by Section 19051. The
21 amount of tax resulting from the recapture shall be added to the
22 tax otherwise due by the taxpayer for the taxable year in which
23 the committee’s recapture determination occurred.

24 (g) (1) The aggregate amount of credit that may be allocated
25 in any fiscal year pursuant to this section and Section 17059.2 shall
26 be an amount equal to the sum of subparagraphs (A), (B), *and*
27 (C), ~~and less the amount specified in subparagraph (D)~~:

28 (A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal
29 year, one hundred fifty million dollars (\$150,000,000) for the
30 2014–15 fiscal year, and two hundred million dollars
31 (\$200,000,000) for each fiscal year from 2015–16 to 2018–19,
32 inclusive.

33 (B) The unallocated credit amount, if any, from the preceding
34 fiscal year.

35 (C) The amount of any previously allocated credits that have
36 been recaptured.

37 ~~(D) The amount by which the exemptions claimed in the prior~~
38 ~~year pursuant to Section 6377.1 plus the amounts claimed in the~~
39 ~~prior year pursuant to this section and Sections 17053.73, 17059.2,~~

1 and ~~23626, exceed seven hundred fifty million dollars~~
2 ~~(\$750,000,000).~~

3 *(D) The amount estimated by the Director of Finance, in*
4 *consultation with the Franchise Tax Board and the State Board*
5 *of Equalization, to be necessary to limit the aggregation of the*
6 *estimated amount of exemptions claimed pursuant to Section*
7 *6377.1 and of the amounts estimated to be claimed pursuant to*
8 *this section and Sections 17053.73, 23626, and 23689 to no more*
9 *than seven hundred fifty million dollars (\$750,000,000) for either*
10 *the current fiscal year or for any of the three succeeding fiscal*
11 *years.*

12 *(i) The Director of Finance shall notify the Chairperson of the*
13 *Joint Legislative Budget Committee of the estimated annual*
14 *allocation authorized by this paragraph. Any allocation pursuant*
15 *to these provisions shall be made no sooner than 30 days after*
16 *written notification has been provided to the Chairperson of the*
17 *Joint Legislative Budget Committee and the chairpersons of the*
18 *committees of each house of the Legislature that consider*
19 *appropriation, or not sooner than whatever lesser time the*
20 *Chairperson of the Joint Legislative Budget Committee, or his or*
21 *her designee, may determine.*

22 *(ii) In no event shall the amount estimated in this subparagraph*
23 *be less than zero dollars (\$0).*

24 (2) Each fiscal year, 25 percent of the aggregate amount of the
25 credit that may be allocated pursuant to this section and Section
26 17059.2 shall be reserved for “small business,” as defined in
27 Section 17053.73 or 23626.

28 (3) Each fiscal year, no more than 20 percent of the aggregate
29 amount of the credit that shall be allocated pursuant to this section
30 may be allocated to any one taxpayer.

31 (h) GO-Biz may prescribe rules and regulations as necessary to
32 carry out the purposes of this section. Any rule or regulation
33 prescribed pursuant to this section may be by adoption of an
34 emergency regulation in accordance with Chapter 3.5 (commencing
35 with Section 11340) of Part 1 of Division 3 of Title 2 of the
36 Government Code.

37 ~~(i) (1) A written agreement between GO-Biz and a taxpayer~~
38 ~~with respect to the credit authorized by this section shall not~~
39 ~~restrict, broaden, or otherwise alter the ability of the taxpayer to~~

1 assign that credit or any portion thereof in accordance with Section
2 23663.

3 ~~(2)~~

4 (i) A written agreement between GO-Biz and a taxpayer with
5 respect to the credit authorized by this section must comply with
6 existing law on the date the agreement is executed.

7 (j) (1) *Upon the effective date of this section, the Department*
8 *of Finance shall estimate the total dollar amount of credits that*
9 *will be claimed under this section with respect to each fiscal year*
10 *from the 2013–14 fiscal year to the 2024–25 fiscal year, inclusive.*

11 (2) *The Franchise Tax Board shall annually provide to the Joint*
12 *Legislative Budget Committee, by no later than March 1, a report*
13 *of the total dollar amount of the credits claimed under this section*
14 *with respect to the relevant fiscal year. The report shall compare*
15 *the total dollar amount of credits claimed under this section with*
16 *respect to that fiscal year with the department’s estimate with*
17 *respect to that same fiscal year. If the total dollar amount of credits*
18 *claimed for the fiscal year is less than the estimate for that fiscal*
19 *year, the report shall identify options for increasing annual claims*
20 *of the credit so as to meet estimated amounts.*

21 ~~(j)~~

22 (k) This section is repealed on December 1, 2025.

23 ~~SEC. 38.~~

24 SEC. 39. Section 24356.6 of the Revenue and Taxation Code
25 is amended to read:

26 24356.6. (a) For each taxable year beginning on or after
27 January 1, 1998, a qualified taxpayer may elect to treat 40 percent
28 of the cost of any Section 24356.6 property as an expense that is
29 not chargeable to a capital account. Any cost so treated shall be
30 allowed as a deduction for the taxable year in which the qualified
31 taxpayer places the Section 24356.6 property in service.

32 (b) (1) An election under this section for any taxable year shall
33 do both of the following:

34 (A) Specify the items of Section 24356.6 property to which the
35 election applies and the percentage of the cost of each of those
36 items that are to be taken into account under subdivision (a).

37 (B) Be made on the qualified taxpayer’s original return of the
38 tax imposed by this part for the taxable year.

1 (2) Any election made under this section, and any specification
2 contained in that election, may not be revoked except with the
3 consent of the Franchise Tax Board.

4 (c) (1) For purposes of this section, “Section 24356.6 property”
5 means any recovery property that is:

6 (A) Section 1245 property (as defined in Section 1245 (a)(3) of
7 the Internal Revenue Code).

8 (B) Purchased and placed in service by the qualified taxpayer
9 for exclusive use in a trade or business conducted within a targeted
10 tax area designated pursuant to Chapter 12.93 (commencing with
11 Section 7097) of Division 7 of Title 1 of the Government Code.

12 (C) Purchased and placed in service before the date the targeted
13 tax area designation expires, is revoked, is no longer binding, or
14 becomes inoperative.

15 (2) For purposes of paragraph (1), “purchase” means any
16 acquisition of property, but only if all of the following apply:

17 (A) The property is not acquired from a person whose
18 relationship to the person acquiring it would result in the
19 disallowance of losses under Section 267 or 707(b) of the Internal
20 Revenue Code. However, in applying Sections 267(b) and 267(c)
21 for purposes of this section, Section 267(c)(4) shall be treated as
22 providing that the family of an individual shall include only the
23 individual’s spouse, ancestors, and lineal descendants.

24 (B) The property is not acquired by one member of an affiliated
25 group from another member of the same affiliated group.

26 (C) The basis of the property in the hands of the person acquiring
27 it is not determined in whole or in part by reference to the adjusted
28 basis of that property in the hands of the person from who it is
29 acquired.

30 (3) For purposes of this section, the cost of property does not
31 include that portion of the basis of that property that is determined
32 by reference to the basis of other property held at any time by the
33 person acquiring that property.

34 (4) This section shall not apply to any property for which the
35 qualified taxpayer may not make an election under Section 179 of
36 the Internal Revenue Code because of the application of the
37 provisions of Section 179(d) of the Internal Revenue Code.

38 (5) For purposes of subdivision (b), both of the following apply:

39 (A) All members of an affiliated group shall be treated as one
40 qualified taxpayer.

1 (B) The qualified taxpayer shall apportion the dollar limitation
2 contained in subdivision (f) among the members of the affiliated
3 group in whatever manner the board shall prescribe.

4 (6) For purposes of paragraphs (2) and (5), “affiliated group”
5 means “affiliated group” as defined in Section 1504 of the Internal
6 Revenue Code, except that, for these purposes, the phrase “more
7 than 50 percent” shall be substituted for the phrase “at least 80
8 percent” each place it appears in Section 1504(a) of the Internal
9 Revenue Code.

10 (d) (1) For purposes of this section, “qualified taxpayer” means
11 a corporation that meets both of the following:

12 (A) Is engaged in conducting a trade or business within a
13 targeted tax area designated pursuant to Chapter 12.93
14 (commencing with Section 7097) of Division 7 of Title 1 of the
15 Government Code.

16 (B) Is engaged in those lines of business described in Codes
17 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
18 inclusive; 4500 to 4599, inclusive, and 4700 to 5199, inclusive,
19 of the Standard Industrial Classification (SIC) Manual published
20 by the United States Office of Management and Budget, 1987
21 edition.

22 (2) In the case of any pass-through entity, the determination of
23 whether a taxpayer is a qualified taxpayer under this section shall
24 be made at the entity level and any deduction under this section
25 or Section 17267.6 shall be allowed to the pass-through entity and
26 passed through to the partners or shareholders in accordance with
27 applicable provisions of this part or Part 10 (commencing with
28 Section 17001). For purposes of this subparagraph, the term
29 “pass-through entity” means any partnership or S corporation.

30 (e) Any qualified taxpayer who elects to be subject to this
31 section shall not be entitled to claim additional depreciation
32 pursuant to Section 24356 with respect to any property that
33 constitutes Section 24356.6 property. However, the qualified
34 taxpayer may claim depreciation by any method permitted by
35 Section 24349 commencing with the taxable year following the
36 taxable year in which Section 24356.6 property is placed in service.

37 (f) The aggregate cost of all Section 24356.6 property that may
38 be taken into account under subdivision (a) for any taxable year
39 shall not exceed the following applicable amount for the taxable

1 year of the designation of the relevant targeted tax area and taxable
2 years thereafter:

| | | |
|----|------------------------------------|----------------|
| 3 | | |
| 4 | | The applicable |
| 5 | | amount is: |
| 6 | Taxable year of designation | \$100,000 |
| 7 | 1st taxable year thereafter | 100,000 |
| 8 | 2nd taxable year thereafter | 75,000 |
| 9 | 3rd taxable year thereafter | 75,000 |
| 10 | Each taxable year thereafter | 50,000 |

11
12 (g) Any amounts deducted under subdivision (a) with respect
13 to Section 24356.6 property that ceases to be used in the qualified
14 taxpayer’s trade or business within a targeted tax area at any time
15 before the close of the second taxable year after the property is
16 placed in service shall be included in income in the taxable year
17 in which the property ceases to be so used.

18 (h) This section shall cease to be operative for taxable years
19 beginning on or after January 1, 2014, and shall be repealed on
20 December 1, 2014.

21 ~~SEC. 39.~~

22 *SEC. 40.* Section 24356.7 of the Revenue and Taxation Code
23 is amended to read:

24 24356.7. (a) A taxpayer may elect to treat 40 percent of the
25 cost of any Section 24356.7 property as an expense that is not
26 chargeable to a capital account. Any cost so treated shall be allowed
27 as a deduction for the taxable year in which the taxpayer places
28 the Section 24356.7 property in service.

29 (b) (1) An election under this section for any taxable year shall
30 do both of the following:

31 (A) Specify the items of Section 24356.7 property to which the
32 election applies and the percentage of the cost of each of those
33 items that are to be taken into account under subdivision (a).

34 (B) Be made on the taxpayer’s original return of the tax imposed
35 by this part for the taxable year.

36 (2) Any election made under this section, and any specification
37 contained in that election, may not be revoked except with the
38 consent of the Franchise Tax Board.

39 (c) (1) For purposes of this section, “Section 24356.7 property”
40 means any recovery property that is:

1 (A) Section 1245 property (as defined in Section 1245(a)(3) of
2 the Internal Revenue Code).

3 (B) Purchased and placed in service by the taxpayer for
4 exclusive use in a trade or business conducted within an enterprise
5 zone designated pursuant to Chapter 12.8 (commencing with
6 Section 7070) of Division 7 of Title 1 of the Government Code.

7 (C) Purchased and placed in service before the date the
8 enterprise zone designation expires, is no longer binding, or
9 becomes inoperative.

10 (2) For purposes of paragraph (1), “purchase” means any
11 acquisition of property, but only if all of the following apply:

12 (A) The property is not acquired from a person whose
13 relationship to the person acquiring it would result in the
14 disallowance of losses under Sections 24427 through 24429.
15 However, in applying Sections 24428 and 24429 for purposes of
16 this section, subdivision (d) of Section 24429 shall be treated as
17 providing that the family of an individual shall include only his or
18 her spouse, ancestors, and lineal descendants.

19 (B) The property is not acquired by one member of an affiliated
20 group from another member of the same affiliated group.

21 (C) The basis of the property in the hands of the person acquiring
22 it is not determined in whole or in part by reference to the adjusted
23 basis of that property in the hands of the person from whom it is
24 acquired.

25 (3) For purposes of this section, the cost of property does not
26 include that portion of the basis of that property that is determined
27 by reference to the basis of other property held at any time by the
28 person acquiring that property.

29 (4) This section shall not apply to any property for which the
30 taxpayer could not make a federal election under Section 179 of
31 the Internal Revenue Code because of the application of the
32 provisions of Section 179(d) of the Internal Revenue Code.

33 (5) For purposes of subdivision (b) of this section, both of the
34 following apply:

35 (A) All members of an affiliated group shall be treated as one
36 taxpayer.

37 (B) The taxpayer shall apportion the dollar limitation contained
38 in subdivision (f) among the members of the affiliated group in
39 whatever manner the board shall prescribe.

1 (6) For purposes of paragraphs (2) and (5), “affiliated group”
 2 means “affiliated group” as defined in Section 1504 of the Internal
 3 Revenue Code, except that, for these purposes, the phrase “more
 4 than 50 percent” shall be substituted for the phrase “at least 80
 5 percent” each place it appears in Section 1504(a) of the Internal
 6 Revenue Code.

7 (d) For purposes of this section, “taxpayer” means a bank or
 8 corporation that conducts a trade or business within an enterprise
 9 zone designated pursuant to Chapter 12.8 (commencing with
 10 Section 7070) of Division 7 of Title 1 of the Government Code.

11 (e) Any taxpayer who elects to be subject to this section shall
 12 not be entitled to claim additional depreciation pursuant to Section
 13 24356 with respect to any property that constitutes Section 24356.7
 14 property. However, the taxpayer may claim depreciation by any
 15 method permitted by Section 24349 commencing with the taxable
 16 year following the taxable year in which Section 24356.7 property
 17 is placed in service.

18 (f) The aggregate cost of all Section 24356.7 property that may
 19 be taken into account under subdivision (a) for any taxable years
 20 shall not exceed the following applicable amount for the taxable
 21 year of the designation of the relevant enterprise zone and taxable
 22 years thereafter:

| | | |
|----|------------------------------------|----------------|
| 23 | | |
| 24 | | The applicable |
| 25 | | amount is: |
| 26 | Taxable year of designation | \$100,000 |
| 27 | 1st taxable year thereafter | 100,000 |
| 28 | 2nd taxable year thereafter | 75,000 |
| 29 | 3rd taxable year thereafter | 75,000 |
| 30 | Each taxable year thereafter | 50,000 |

31
 32 (g) Any amounts deducted under subdivision (a) with respect
 33 to Section 24356.7 property that ceases to be used in the taxpayer’s
 34 trade or business within an enterprise zone at any time before the
 35 close of the second taxable year after the property is placed in
 36 service shall be included in income in the taxable year in which
 37 the property ceases to be so used.

38 (h) This section shall cease to be operative for taxable years
 39 beginning on or after January 1, 2014, and shall be repealed on
 40 December 1, 2014.

1 ~~SEC. 40.~~

2 *SEC. 41.* Section 24356.8 of the Revenue and Taxation Code
3 is amended to read:

4 24356.8. (a) For each taxable year beginning on or after
5 January 1, 1995, a taxpayer may elect to treat 40 percent of the
6 cost of any Section 24356.8 property as an expense that is not
7 chargeable to the capital account. Any cost so treated shall be
8 allowed as a deduction for the taxable year in which the taxpayer
9 places the Section 24356.8 property in service.

10 (b) (1) An election under this section for any taxable year shall
11 meet both of the following requirements:

12 (A) Specify the items of Section 24356.8 property to which the
13 election applies and the portion of the cost of each of those items
14 that is to be taken into account under subdivision (a).

15 (B) Be made on the taxpayer's return of the tax imposed by this
16 part for the taxable year.

17 (2) Any election made under this section, and any specification
18 contained in that election, may not be revoked except with the
19 consent of the Franchise Tax Board.

20 (c) (1) For purposes of this section, "Section 24356.8 property"
21 means any recovery property that is:

22 (A) Section 1245 property (as defined in Section 1245(a)(3) of
23 the Internal Revenue Code).

24 (B) Purchased by the taxpayer for exclusive use in a trade or
25 business conducted within a LAMBRA.

26 (C) Purchased before the date the LAMBRA designation expires,
27 is no longer binding, or becomes inoperative.

28 (2) For purposes of paragraph (1), "purchase" means any
29 acquisition of property, but only if all of the following apply:

30 (A) The property is not acquired from a person whose
31 relationship to the person acquiring it would result in the
32 disallowance of losses under Section 267 or 707(b) of the Internal
33 Revenue Code (but, in applying Sections 267(b) and 267(c) of the
34 Internal Revenue Code for purposes of this section, Section
35 267(c)(4) of the Internal Revenue Code shall be treated as
36 providing that the family of an individual shall include only his or
37 her spouse, ancestors, and lineal descendants).

38 (B) The property is not acquired by one component member of
39 an affiliated group from another component member of the same
40 affiliated group.

1 (C) The basis of the property in the hands of the person acquiring
 2 it is not determined in whole or in part by reference to the adjusted
 3 basis of that property in the hands of the person from whom
 4 acquired.

5 (3) For purposes of this section, the cost of property does not
 6 include so much of the basis of that property as is determined by
 7 reference to the basis of other property held at any time by the
 8 person acquiring that property.

9 (4) This section shall not apply to any property for which the
 10 taxpayer may not make an election for the taxable year under
 11 Section 179 of the Internal Revenue Code because of the provisions
 12 of Section 179(d) of the Internal Revenue Code.

13 (5) For purposes of subdivision (b), both of the following apply:

14 (A) All members of an affiliated group shall be treated as one
 15 taxpayer.

16 (B) The taxpayer shall apportion the dollar limitation contained
 17 in subdivision (f) among the component members of the affiliated
 18 group in whatever manner the board shall by regulations prescribe.

19 (6) For purposes of paragraphs (2) and (5), “affiliated group”
 20 has the meaning assigned to it by Section 1504 of the Internal
 21 Revenue Code, except that, for these purposes, the phrase “more
 22 than 50 percent” shall be substituted for the phrase “at least 80
 23 percent” each place it appears in Section 1504(a) of the Internal
 24 Revenue Code.

25 (7) This section shall not apply to any property described in
 26 Section 168(f) of the Internal Revenue Code.

27 (8) In the case of an S corporation, the dollar limitation
 28 contained in subdivision (f) shall be applied at the entity level and
 29 at the shareholder level.

30 (d) For purposes of this section:

31 (1) “LAMBRA” means a local agency military base recovery
 32 area designated in accordance with the provisions of Section 7114
 33 of the Government Code.

34 (2) “Taxpayer” means a corporation that conducts a trade or
 35 business within a LAMBRA and, for the first two taxable years,
 36 has a net increase in jobs (defined as 2,000 paid hours per employee
 37 per year) of one or more employees in the LAMBRA.

38 (A) The net increase in the number of jobs shall be determined
 39 by subtracting the total number of full-time employees (defined
 40 as 2,000 paid hours per employee per year) the taxpayer employed

1 in this state in the taxable year prior to commencing business
2 operations in the LAMBRA from the total number of full-time
3 employees the taxpayer employed in this state during the second
4 taxable year after commencing business operations in the
5 LAMBRA. For taxpayers who commence doing business in this
6 state with their LAMBRA business operation, the number of
7 employees for the taxable year prior to commencing business
8 operations in the LAMBRA shall be zero. If the taxpayer has a net
9 increase in jobs in the state, the credit shall be allowed only if one
10 or more full-time employees is employed within the LAMBRA.

11 (B) The total number of employees employed in the LAMBRA
12 shall equal the sum of both of the following:

13 (i) The total number of hours worked in the LAMBRA for the
14 taxpayer by employees (not to exceed 2,000 hours per employee)
15 who are paid an hourly wage divided by 2,000.

16 (ii) The total number of months worked in the LAMBRA for
17 the taxpayer by employees who are salaried employees divided
18 by 12.

19 (C) In the case of a taxpayer that first commences doing business
20 in the LAMBRA during the taxable year, for purposes of clauses
21 (i) and (ii), respectively, of subparagraph (B), the divisors “2,000”
22 and “12” shall be multiplied by a fraction, the numerator of which
23 is the number of months of the taxable year that the taxpayer was
24 doing business in the LAMBRA and the denominator of which is
25 12.

26 (e) Any taxpayer who elects to be subject to this section shall
27 not be entitled to claim additional depreciation pursuant to Section
28 24356 with respect to any property that constitutes Section 24356.8
29 property.

30 (f) The aggregate cost of all Section 24356.8 property that may
31 be taken into account under subdivision (a) for any taxable year
32 shall not exceed the following applicable amounts for the taxable
33 year of the designation of the relevant LAMBRA and taxable years
34 thereafter:

| | | |
|---|------------------------------------|----------------|
| 1 | | The applicable |
| 2 | | amount is: |
| 3 | | |
| 4 | Taxable year of designation | \$100,000 |
| 5 | 1st taxable year thereafter | 100,000 |
| 6 | 2nd taxable year thereafter | 75,000 |
| 7 | 3rd taxable year thereafter | 75,000 |
| 8 | Each taxable year thereafter | 50,000 |
| 9 | | |

10 (g) This section shall apply only to property that is used
11 exclusively in a trade or business conducted within a LAMBRA.

12 (h) (1) Any amounts deducted under subdivision (a) with respect
13 to property that ceases to be used in the trade or business within
14 a LAMBRA at any time before the close of the second taxable
15 year after the property was placed in service shall be included in
16 income for that year.

17 (2) At the close of the second taxable year, if the taxpayer has
18 not increased the number of its employees as determined by
19 paragraph (2) of subdivision (d), then the amount of the deduction
20 previously claimed shall be added to the taxpayer’s net income
21 for the taxpayer’s second taxable year.

22 (i) Any taxpayer who elects to be subject to this section shall
23 not be entitled to claim for the same property the deduction under
24 Section 179 of the Internal Revenue Code, relating to an election
25 to expense certain depreciable business assets.

26 (j) This section shall cease to be operative for taxable years
27 beginning on or after January 1, 2014, and shall be repealed on
28 December 1, 2014.

29 ~~SEC. 41.~~

30 *SEC. 42.* Section 24384.5 of the Revenue and Taxation Code
31 is amended to read:

32 24384.5. (a) There shall be allowed as a deduction the amount
33 of net interest received by the taxpayer before January 1, 2014, in
34 payment of indebtedness of a person or entity engaged in a trade
35 or business located in an enterprise zone.

36 (b) A deduction shall not be allowed under this section unless
37 at the time the indebtedness is incurred each of the following
38 requirements are met:

39 (1) The trade or business is located solely within an enterprise
40 zone.

1 (2) The indebtedness is incurred solely in connection with
2 activity within the enterprise zone.

3 (3) The taxpayer has no equity or other ownership interest in
4 the debtor.

5 (c) “Enterprise zone” means an area designated as an enterprise
6 zone pursuant to Chapter 12.8 (commencing with Section 7070)
7 of Division 7 of Title 1 of the Government Code.

8 (d) This section shall cease to be operative for taxable years
9 beginning on or after January 1, 2014, and shall be repealed on
10 December 1, 2014.

11 ~~SEC. 42.~~

12 *SEC. 43.* Section 24416.2 of the Revenue and Taxation Code
13 is amended to read:

14 24416.2. (a) The term “qualified taxpayer” as used in Section
15 24416.1 includes a corporation engaged in the conduct of a trade
16 or business within an enterprise zone designated pursuant to
17 Chapter 12.8 (commencing with Section 7070) of Division 7 of
18 Title 1 of the Government Code. For purposes of this subdivision,
19 all of the following shall apply:

20 (1) A net operating loss shall not be a net operating loss
21 carryback for any taxable year and a net operating loss for any
22 taxable year beginning on or after the date that the area in which
23 the taxpayer conducts a trade or business is designated as an
24 enterprise zone shall be a net operating loss carryover to each of
25 the 15 taxable years following the taxable year of loss.

26 (2) For purposes of this subdivision:

27 (A) “Net operating loss” means the loss determined under
28 Section 172 of the Internal Revenue Code, as modified by Section
29 24416.1, attributable to the taxpayer’s business activities within
30 the enterprise zone (as defined in Chapter 12.8 (commencing with
31 Section 7070) of Division 7 of Title 1 of the Government Code)
32 prior to the enterprise zone expiration date. That attributable loss
33 shall be determined in accordance with Chapter 17 (commencing
34 with Section 25101), modified for purposes of this subdivision as
35 follows:

36 (i) Loss shall be apportioned to the enterprise zone by
37 multiplying total loss from the business by a fraction, the numerator
38 of which is the property factor plus the payroll factor, and the
39 denominator of which is two.

40 (ii) “The enterprise zone” shall be substituted for “this state.”

1 (B) A net operating loss carryover shall be a deduction only
2 with respect to the taxpayer's business income attributable to the
3 enterprise zone as defined in Chapter 12.8 (commencing with
4 Section 7070) of Division 7 of Title 1 of the Government Code.

5 (C) Attributable income is that portion of the taxpayer's
6 California source business income that is apportioned to the
7 enterprise zone. For that purpose, the taxpayer's business income
8 attributable to sources in this state first shall be determined in
9 accordance with Chapter 17 (commencing with Section 25101).
10 That business income shall be further apportioned to the enterprise
11 zone in accordance with Article 2 (commencing with Section
12 25120) of Chapter 17, modified for purposes of this subdivision
13 as follows:

14 (i) Business income shall be apportioned to the enterprise zone
15 by multiplying the total California business income of the taxpayer
16 by a fraction, the numerator of which is the property factor plus
17 the payroll factor, and the denominator of which is two. For
18 purposes of this clause:

19 (I) The property factor is a fraction, the numerator of which is
20 the average value of the taxpayer's real and tangible personal
21 property owned or rented and used in the enterprise zone during
22 the taxable year, and the denominator of which is the average value
23 of all the taxpayer's real and tangible personal property owned or
24 rented and used in this state during the taxable year.

25 (II) The payroll factor is a fraction, the numerator of which is
26 the total amount paid by the taxpayer in the enterprise zone during
27 the taxable year for compensation, and the denominator of which
28 is the total compensation paid by the taxpayer in this state during
29 the taxable year.

30 (ii) If a loss carryover is allowable pursuant to this section for
31 any taxable year after the enterprise zone designation has expired,
32 the enterprise zone shall be deemed to remain in existence for
33 purposes of computing the limitation set forth in subparagraph (B)
34 and allowing a net operating loss deduction.

35 (D) "Enterprise zone expiration date" means the date the
36 enterprise zone designation expires, is no longer binding, or
37 becomes inoperative.

38 (3) The changes made to this subdivision by the act adding this
39 paragraph shall apply to taxable years beginning on or after January
40 1, 1998.

1 (b) A taxpayer who qualifies as a “qualified taxpayer” under
2 one or more sections shall, for the taxable year of the net operating
3 loss and any taxable year to which that net operating loss may be
4 carried, designate on the original return filed for each year the
5 section which applies to that taxpayer with respect to that net
6 operating loss. If the taxpayer is eligible to qualify under more
7 than one section, the designation is to be made after taking into
8 account subdivision (c).

9 (c) If a taxpayer is eligible to qualify under this section and
10 either Section 24416.4, 24416.5, or 24416.6 as a “qualified
11 taxpayer,” with respect to a net operating loss in a taxable year,
12 the taxpayer shall designate which section is to apply to the
13 taxpayer.

14 (d) Notwithstanding Section 24416, the amount of the loss
15 determined under this section, or Section 24416.4, 24416.5, or
16 24416.6 shall be the only net operating loss allowed to be carried
17 over from that taxable year and the designation under subdivision
18 (b) shall be included in the election under Section 24416.1.

19 (e) This section shall cease to be operative for taxable years
20 beginning on or after January 1, 2014, and shall be repealed on
21 December 1, 2014.

22 ~~SEC. 43.~~

23 *SEC. 44.* Section 24416.5 of the Revenue and Taxation Code
24 is amended to read:

25 24416.5. (a) For each taxable year beginning on or after
26 January 1, 1995, the term “qualified taxpayer” as used in Section
27 24416.1 includes a taxpayer engaged in the conduct of a trade or
28 business within a LAMBRA. For purposes of this subdivision, all
29 of the following shall apply:

30 (1) A net operating loss shall not be a net operating loss
31 carryback for any taxable year and, except as provided in
32 subparagraph (B), a net operating loss for any taxable year
33 beginning on or after the date the area in which the taxpayer
34 conducts a trade or business is designated a LAMBRA shall be a
35 net operating loss carryover to each following taxable year that
36 ends before the LAMBRA expiration date or to each of the 15
37 taxable years following the taxable year of loss, if longer.

38 (2) In the case of a financial institution to which Section 585,
39 586, or 593 of the Internal Revenue Code applies, a net operating
40 loss for any taxable year beginning on or after January 1, 1984,

1 shall be a net operating loss carryover to each of the five years
2 following the taxable year of the loss. Subdivision (b) of Section
3 24416.1 shall not apply.

4 (3) “LAMBRA” means a local agency military base recovery
5 area designated in accordance with Section 7114 of the Government
6 Code.

7 (4) “Taxpayer” means a bank or corporation that conducts a
8 trade or business within a LAMBRA and, for the first two taxable
9 years, has a net increase in jobs (defined as 2,000 paid hours per
10 employee per year) of one or more employees in the LAMBRA
11 and this state. For purposes of this paragraph, all of the following
12 shall apply:

13 (A) The net increase in the number of jobs shall be determined
14 by subtracting the total number of full-time employees (defined
15 as 2,000 paid hours per employee per year) the taxpayer employed
16 in this state in the taxable year prior to commencing business
17 operations in the LAMBRA from the total number of full-time
18 employees the taxpayer employed in this state during the second
19 taxable year after commencing business operations in the
20 LAMBRA. For taxpayers who commence doing business in this
21 state with their LAMBRA business operation, the number of
22 employees for the taxable year prior to commencing business
23 operations in the LAMBRA shall be zero. The deduction shall be
24 allowed only if the taxpayer has a net increase in jobs in the state,
25 and if one or more full-time employees are employed within the
26 LAMBRA.

27 (B) The total number of employees employed in the LAMBRA
28 shall equal the sum of both of the following:

29 (i) The total number of hours worked in the LAMBRA for the
30 taxpayer by employees (not to exceed 2,000 hours per employee)
31 who are paid an hourly wage divided by 2,000.

32 (ii) The total number of months worked in the LAMBRA for
33 the taxpayer by employees who are salaried employees divided
34 by 12.

35 (C) In the case of a taxpayer that first commences doing business
36 in the LAMBRA during the taxable year, for purposes of clauses
37 (i) and (ii), respectively, of subparagraph (B) the divisors “2,000”
38 and “12” shall be multiplied by a fraction, the numerator of which
39 is the number of months of the taxable year that the taxpayer was

1 doing business in the LAMBRA and the denominator of which is
2 12.

3 (5) “Net operating loss” means the loss determined under
4 Section 172 of the Internal Revenue Code, as modified by Section
5 24416.1, attributable to the taxpayer’s business activities within a
6 LAMBRA prior to the LAMBRA expiration date. The attributable
7 loss shall be determined in accordance with Chapter 17
8 (commencing with Section 25101), modified for purposes of this
9 section as follows:

10 (A) Loss shall be apportioned to a LAMBRA by multiplying
11 total loss from the business by a fraction, the numerator of which
12 is the property factor plus the payroll factor, and the denominator
13 of which is 2.

14 (B) “The LAMBRA” shall be substituted for “this state.”

15 (6) A net operating loss carryover shall be a deduction only with
16 respect to the taxpayer’s business income attributable to a
17 LAMBRA.

18 (7) Attributable income is that portion of the taxpayer’s
19 California source business income that is apportioned to the
20 LAMBRA. For that purpose, the taxpayer’s business income
21 attributable to sources in this state first shall be determined in
22 accordance with Chapter 17 (commencing with Section 25101).
23 That business income shall be further apportioned to the LAMBRA
24 in accordance with Article 2 (commencing with Section 25120)
25 of Chapter 17, modified as follows:

26 (A) Business income shall be apportioned to a LAMBRA by
27 multiplying total California business income of the taxpayer by a
28 fraction, the numerator of which is the property factor plus the
29 payroll factor, and the denominator of which is two. For purposes
30 of this clause:

31 (i) The property factor is a fraction, the numerator of which is
32 the average value of the taxpayer’s real and tangible personal
33 property owned or rented and used in the LAMBRA during the
34 taxable year, and the denominator of which is the average value
35 of all the taxpayer’s real and tangible personal property owned or
36 rented and used in this state during the taxable year.

37 (ii) The payroll factor is a fraction, the numerator of which is
38 the total amount paid by the taxpayer in the LAMBRA during the
39 taxable year for compensation, and the denominator of which is

1 the total compensation paid by the taxpayer in this state during the
2 taxable year.

3 (B) If a loss carryover is allowable pursuant to this section for
4 any taxable year after the LAMBRA designation has expired, the
5 LAMBRA shall be deemed to remain in existence for purposes of
6 computing the limitation specified in subparagraph (D) and
7 allowing a net operating loss deduction.

8 (8) “LAMBRA expiration date” means the date the LAMBRA
9 designation expires, is no longer binding, or becomes inoperative
10 pursuant to Section 7110 of the Government Code.

11 (b) A taxpayer who qualifies as a “qualified taxpayer” under
12 one or more sections shall, for the taxable year of the net operating
13 loss and any taxable year to which that net operating loss may be
14 carried, designate on the original return filed for each year the
15 section that applies to that taxpayer with respect to that net
16 operating loss. If the taxpayer is eligible to qualify under more
17 than one section, the designation is to be made after taking into
18 account subdivision (c).

19 (c) If a taxpayer is eligible to qualify under this section and
20 either Section 24416.2, 24416.4, or 24416.6 as a “qualified
21 taxpayer,” with respect to a net operating loss in a taxable year,
22 the taxpayer shall designate which section is to apply to the
23 taxpayer.

24 (d) Notwithstanding Section 24416, the amount of the loss
25 determined under this section or Section 24416.2, 24416.4, or
26 24416.6 shall be the only net operating loss allowed to be carried
27 over from that taxable year and the designation under subdivision
28 (b) shall be included in the election under Section 24416.1.

29 (e) This section shall apply to taxable years beginning on and
30 after January 1, 1998.

31 (f) This section shall cease to be operative for taxable years
32 beginning on or after January 1, 2014, and shall be repealed on
33 December 1, 2014.

34 ~~SEC. 44.~~

35 *SEC. 45.* Section 24416.6 of the Revenue and Taxation Code
36 is amended to read:

37 24416.6. (a) For each taxable year beginning on or after
38 January 1, 1998, the term “qualified taxpayer” as used in Section
39 24416.1 includes a corporation that meets both of the following:

1 (1) Is engaged in the conduct of a trade or business within a
2 targeted tax area designated pursuant to Chapter 12.93
3 (commencing with Section 7097) of Division 7 of Title 1 of the
4 Government Code.

5 (2) Is engaged in those lines of business described in Codes
6 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
7 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
8 of the Standard Industrial Classification (SIC) Manual published
9 by the United States Office of Management and Budget, 1987
10 edition. In the case of any pass-through entity, the determination
11 of whether a taxpayer is a qualified taxpayer shall be made at the
12 entity level.

13 (b) For purposes of subdivision (a), all of the following shall
14 apply:

15 (1) A net operating loss shall not be a net operating loss
16 carryback for any taxable year and a net operating loss for any
17 taxable year beginning on or after the date that the area in which
18 the qualified taxpayer conducts a trade or business is designated
19 as a targeted tax area shall be a net operating loss carryover to each
20 of the 15 taxable years following the taxable year of loss.

21 (2) "Net operating loss" means the loss determined under
22 Section 172 of the Internal Revenue Code, as modified by Section
23 24416.1, attributable to the qualified taxpayer's business activities
24 within the targeted tax area (as defined in Chapter 12.93
25 (commencing with Section 7097) of Division 7 of Title 1 of the
26 Government Code) prior to the targeted tax area expiration date.
27 That attributable loss shall be determined in accordance with
28 Chapter 17 (commencing with Section 25101), modified for
29 purposes of this section as follows:

30 (A) Loss shall be apportioned to the targeted tax area by
31 multiplying total loss from the business by a fraction, the numerator
32 of which is the property factor plus the payroll factor, and the
33 denominator of which is 2.

34 (B) "The targeted tax area" shall be substituted for "this state."

35 (3) A net operating loss carryover shall be a deduction only with
36 respect to the qualified taxpayer's business income attributable to
37 the targeted tax area as defined in Chapter 12.93 (commencing
38 with Section 7097) of Division 7 of Title 1 of the Government
39 Code.

1 (4) Attributable income is that portion of the taxpayer's
2 California source business income that is apportioned to the
3 targeted tax area. For that purpose, the taxpayer's business income
4 attributable to sources in this state first shall be determined in
5 accordance with Chapter 17 (commencing with Section 25101).
6 That business income shall be further apportioned to the targeted
7 tax area in accordance with Article 2 (commencing with Section
8 25120) of Chapter 17, modified for purposes of this subdivision
9 as follows:

10 (A) Business income shall be apportioned to the targeted tax
11 area by multiplying the total California business income of the
12 taxpayer by a fraction, the numerator of which is the property
13 factor plus the payroll factor, and the denominator of which is two.
14 For purposes of this clause:

15 (i) The property factor is a fraction, the numerator of which is
16 the average value of the taxpayer's real and tangible personal
17 property owned or rented and used in the targeted tax area during
18 the taxable year, and the denominator of which is the average value
19 of all the taxpayer's real and tangible personal property owned or
20 rented and used in this state during the taxable year.

21 (ii) The payroll factor is a fraction, the numerator of which is
22 the total amount paid by the taxpayer in the targeted tax area during
23 the taxable year for compensation, and the denominator of which
24 is the total compensation paid by the taxpayer in this state during
25 the taxable year.

26 (B) If a loss carryover is allowable pursuant to this subdivision
27 for any taxable year after the targeted tax area expiration date, the
28 targeted tax area designation shall be deemed to remain in existence
29 for purposes of computing the limitation specified in subparagraph
30 (B) and allowing a net operating loss deduction.

31 (5) "Targeted tax area expiration date" means the date the
32 targeted tax area designation expires, is revoked, is no longer
33 binding, or becomes inoperative.

34 (c) A taxpayer who qualifies as a "qualified taxpayer" under
35 one or more sections shall, for the taxable year of the net operating
36 loss and any taxable year to which that net operating loss may be
37 carried, designate on the original return filed for each year the
38 section that applies to that taxpayer with respect to that net
39 operating loss. If the taxpayer is eligible to qualify under more

1 than one section, the designation is to be made after taking into
2 account subdivision (e).

3 (d) If a taxpayer is eligible to qualify under this section and
4 either Section 24416.2, 24416.4, or 24416.5 as a “qualified
5 taxpayer,” with respect to a net operating loss in a taxable year,
6 the taxpayer shall designate which section is to apply to the
7 taxpayer.

8 (e) Notwithstanding Section 24416, the amount of the loss
9 determined under this section or Section 24416.2, 24416.4, or
10 24416.5 shall be the only net operating loss allowed to be carried
11 over from that taxable year and the designation under subdivision
12 (c) shall be included in the election under Section 24416.1.

13 (f) This section shall apply to taxable years beginning on or
14 after January 1, 1998.

15 (g) This section shall cease to be operative for taxable years
16 beginning on or after January 1, 2014, and shall be repealed on
17 December 1, 2014.

18 ~~SEC. 45.~~

19 *SEC. 46.* There is hereby appropriated up to six hundred
20 thousand dollars (\$600,000) from the General Fund for allocation
21 to the committee and departments that are required to administer
22 this act ~~and~~ by the Director of Finance in furtherance of the
23 objectives of this act. An allocation of funds approved by the
24 Director of Finance under this item shall become effective no
25 sooner than 30 days after the director files written notification
26 thereof with the Chairperson of the Joint Legislative Budget
27 Committee and the chairpersons of the fiscal committees in each
28 house of the Legislature, or no sooner than any lesser time the
29 chairperson of the joint committee, or his or her designee, may in
30 each instance determine.

31 *SEC. 47. (a) Sections 6377.1, 17053.73, 17059.2, 18410.2,*
32 *23636, and 23689 of the Revenue and Taxation Code, added by*
33 *this act, should not remain effective and operative if the repeal of*
34 *Sections 17053.33, 17053.34, 17053.45, 17053.46, 17053.47,*
35 *17053.70, 17053.74, 17053.75, 17053.80, 17235, 17267.2, 17267.6,*
36 *17268, 17276.2, 17276.5, 17276.6, 19136.8, 23612.2, 23622.7,*
37 *23622.8, 23623, 23633, 23634, 23645, 23646, 24356.6, 24356.7,*
38 *24356.8, 24384.5, 24416.2, 24416.5, and 24416.6, as provided*
39 *for in this act, is determined by a court to be invalid and, as a*
40 *result, those sections remain effective and operative.*

1 **(b)** *The provisions of Sections 17059.2 and 23689 are severable.*
2 *If any provision of Section 17059.2 or Section 23689, or the*
3 *application of either section, is held invalid, that invalidity shall*
4 *not affect other provisions or applications that can be given effect*
5 *without the invalid provision or application.*

6 ~~SEC. 46.~~

7 **SEC. 48.** This act is an urgency statute necessary for the
8 immediate preservation of the public peace, health, or safety within
9 the meaning of Article IV of the Constitution and shall go into
10 immediate effect. The facts constituting the necessity are:

11 In order to ensure the public good by providing certainty
12 regarding the incentives available for attracting and retaining jobs
13 in economically distressed areas of the state, it is necessary that
14 this act take effect immediately.

O